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Nov. 19 (576)	<i>To the Chargé in France (tel.)</i> For Dawes: Transmittal of a statement outlining U. S. position (text printed) to be given to the press if considered advisable.	505
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Nov. 25	<i>From the Minister in China (tel.)</i> Conversation with Wellington Koo, who was informed of Department's attitude toward the Council's resolution and toward the Chinese counterproposal; Chinese fear that by the time any commission reaches Manchuria the Japanese will be firmly entrenched.	562
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Nov. 27 (1015)	<i>From the Minister in China (tel.)</i> Information from Tientsin that Chinese have suggested policing by foreign troops of area near Japanese Concession, as the Japanese have demanded the withdrawal of Chinese police.	575
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Nov. 28	<i>Press Release Issued by the Department of State</i> Secretary's assertion at press conference (text printed) that Japanese Foreign Office was misinformed as to his remarks at press conference of November 27 (text printed) in which he expressed surprise over reported Japanese advance toward Chinchow after assurances from Shidehara.	578
Nov. 28	<i>Memorandum by the Secretary of State</i> Discussion of the Chinchow situation with the Japanese Ambassador who handed the Secretary two papers: (1) Suggestion made by Wellington Koo to U. S., British, and French Ministers at Nanking on November 24 (text printed); (2) Japanese reply (text printed).	579
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Nov. 28 (816)	<i>From the Chargé in France (tel.)</i> From Dawes: Information received from Sweetser that Council has disturbing reports of the situation in Manchuria; meeting of the Drafting Committee, and formula proposed to satisfy Sze's points on evacuation and a commission of observers.	586
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Nov. 30 (443)	<i>To the Minister in China (tel.)</i> Instructions, in view of Dawes' earlier suggestion, to advise the Military Attaché at Chinchow that the Department suggests the collaboration and dispatching by the Military Attachés, if possible, of joint or identical statements concerning actual progress of Japanese troop withdrawals.	594
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Dec. 1	<i>From the Minister in China (tel.)</i> Information from Koo that the Japanese are demanding that the Chinese evacuate Chinchow territory on the grounds that Koo's tentative suggestion of November 24 was accepted by Japan as a formal proposal, Japan undertaking not to send troops into the territory except in emergency.	605
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CHINA

NEGOTIATIONS FOR RELINQUISHMENT BY THE UNITED STATES AND OTHER POWERS OF EXTRATERRITORIAL RIGHTS IN CHINA

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Feb. 7	<i>To the Chinese Legation</i> Statement read and handed to the Chinese Minister, containing observations on various points with a view to adjusting the differences between the American and Chinese proposals.	726
Feb. 7	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Oral statement to the Chinese Minister (text printed) pointing out that the internal problems of China must be taken into account by foreign governments in regard to the position of their nationals in China, and that the United States cannot assent to any arrangement failing to safeguard the interests of its nationals.	730
Feb. 10 (35)	<i>To the Ambassador in Great Britain (tel.)</i> Outline of the written and oral statements made to the Chinese Minister, with instructions to give to the Foreign Office the text of the former, explaining that it is to be considered a statement from one negotiator to another.	732
Feb. 10 (44)	<i>To the Minister in China (tel.)</i> Information on present status of extraterritoriality negotiations, and instructions to go to Nanking after the British Minister's arrival there.	733
Feb. 20	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister, who presented a memorandum (printed <i>infra</i>).	733
Feb. 20	<i>From the Chinese Legation</i> Statement by the Chinese Minister regarding main points on which U. S. and Chinese Governments differ.	734

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1931 Feb. 26 (67)	<p><i>To the Minister in China (tel.)</i> Transmittal of the Chinese statement, and observation that the Department's best contribution at present will be temporarily to suspend its efforts and await developments; instructions to inform the British Minister and to ascertain, if possible, what the British Minister intends to propose, if anything. (Footnote: Similar information to the Embassy in Great Britain for communication to British Foreign Office.)</p>	736
Feb. 27	<p><i>Memorandum by the Assistant Secretary of State of a Conversation With the Norwegian Minister</i> Minister's advice that the Norwegian Government had officially informed the Chinese that when the Great Powers gave up extraterritorial rights, Norway would follow suit.</p>	737
Mar. 3 (5)	<p><i>To the Consul General at Nanking (tel.)</i> For the Minister: Instructions to reiterate to the British Minister, Sir Miles Lampson, that this Government is taking no new step for the moment; also to impress upon the Chinese Foreign Minister, Wang, the desirability of modifying his non-conciliatory attitude, and to inquire, if advisable, what his attitude would be toward a proposal to transfer the negotiations to Nanking.</p>	738
Mar. 3	<p><i>From the Minister in China (tel.)</i> Information that the Japanese Chargé has received word that the Department has decided to drop negotiations at Washington and transfer them to China.</p>	739
Mar. 4 (6)	<p><i>To the Consul General at Nanking (tel.)</i> For the Minister: Advice that Debuchi (Japanese Minister in Washington) was told in strict confidence of the possibility of transferring negotiations, and that the Department is awaiting comment on Wang's attitude before taking further action.</p>	740
Mar. 4 (101)	<p><i>From the Minister in China (tel.)</i> From Yunnanfu: Receipt of a communication from the Yunnan delegate of the Ministry for Foreign Affairs (text printed) advising that mixed cases will be treated the same as Chinese cases.</p>	740
Mar. 7 (65)	<p><i>From the British Embassy</i> Transmittal of substance of instructions issued to Lampson (text printed) outlining points to which the British Government attach the greatest importance and for which they are prepared to relinquish others.</p>	741
Mar. 7	<p><i>Memorandum by the Minister in China</i> Conversation with Dr. Wang, who was informed that the British and American Governments held in common the view that extraterritoriality should not be swept away all at once and without substitution of a better arrangement; observation by Dr. Wang that his Government could not make any concessions in regard to certain points and that a deadlock would result.</p>	743
Mar. 8	<p><i>Memorandum by the Minister in China</i> Conversation with the British Minister, who related a conversation with Dr. Wang in which he was informed that the Chinese Government could make no concessions regarding the</p>	744

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Mar. 9	<p><i>Memorandum by the Assistant Secretary of State of a Conversation With the Japanese Ambassador</i></p> <p>Information from the Japanese Ambassador that Japan is planning to begin extraterritoriality negotiations with China, pressing for gradual abolition, and hoping to work closely with Great Britain and the United States.</p>	745
Mar. 9	<p><i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the Counselor of the Japanese Embassy</i></p> <p>Counselor's delivery of Japanese memorandum (printed <i>infra</i>), with explanation that it contained proposals which Japan intended to make to Chinese Government.</p>	746
Undated [Rec'd Mar. 9]	<p><i>From the Japanese Embassy</i></p> <p>Memorandum proposing a gradual relinquishment of extraterritorial rights in China and most-favored-nation treatment.</p>	747
Mar. 9 (92)	<p><i>To the Minister in China (tel.)</i></p> <p>Comment on the discussion of the question of extraterritoriality by the Consul at Yunnanfu with the Chinese authorities; instructions to advise American consular officers in China not to enter into discussion of extraterritoriality with Chinese authorities unless specific cases arise which necessitate such action.</p>	748
Mar. 11	<p><i>Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs</i></p> <p>Conversation with the Chinese Minister concerning a reply to the Chinese statement of February 20; Department's position that in view of the restricted nature of the Minister's instructions, its only reply can be that contained in a statement (printed <i>infra</i>) which was handed to the Minister.</p>	749
Mar. 11	<p><i>To the Chinese Legation</i></p> <p>Statement to the Chinese Minister advising that the Department is instructing the American Minister in China to undertake discussions with the Chinese Foreign Minister.</p>	751
Mar. 12	<p><i>Memorandum by the Minister in China</i></p> <p>Conversation with Dr. Wang, who could see no value in transferring the negotiations to China unless United States was prepared to concede the three controversial points.</p>	751
Mar. 13	<p><i>Memorandum by the Assistant Secretary of State</i></p> <p>Conversation with the British Ambassador, who outlined a discussion between Sir Miles Lampson and Dr. Wang in China, indicating little progress; discussion of the exact application of the term "international settlement" concerning Shanghai.</p>	753
Mar. 14 (131)	<p><i>From the Minister in China (tel.)</i></p> <p>Observation that the informal inquiries, made by the Consul at Yunnan in an effort to obtain information requested by the Department, may be revealing as to the exact nature of instructions from Nanking for Chinese control over foreigners having extraterritorial rights.</p>	754
Mar. 14 (12)	<p><i>To the Consul General at Nanking (tel.)</i></p> <p>For the Minister: Outline for proceeding with the negotiations in China, with instructions to discuss the plan of action</p>	755

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1931 Mar. 14	<i>From the Chinese Legation.</i> Information that the Foreign Ministry is unable to enter into a discussion of points raised in the Chinese statement of February 20 and would like to see the negotiations completed in Washington.	758
Mar. 16 (103)	<i>To the Minister in China (tel.)</i> Instructions to withhold issuance of the consular circular referred to in Department's No. 92, March 9, or to phrase it so as to avoid a possible interpretation of criticism of Consul Stevens' efforts at Yunnan.	759
Mar. 16 (14)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Transmittal of Chinese Legation's memorandum of March 14, with instructions to proceed as outlined in Department's telegram No. 12 of March 14, and to report what transpires upon the delivery to Dr. Wang of Department's statement of March 11.	759
Mar. 16 (71)	<i>To the Ambassador in Great Britain (tel.)</i> Outline of instructions sent to Lampson by his Government and of Department's instructions to the Minister in China; information that the American Minister is to act in close cooperation but independently of British negotiators.	759
Mar. 17	<i>From the Minister in China (tel.)</i> Transmittal, with comments, of the possible wording of certain articles (texts printed) worked out by Lampson and Wang and by Teichman and Hsu Mo. Request for Department's comments on the texts.	762
Mar. 19	<i>Memorandum by the Minister in China of a Conversation With the Chinese Minister for Foreign Affairs</i> Report of the delivery of Department's statement of March 11 to Dr. Wang, who stated that the transfer of negotiations to China would not change China's stand on the three main principles, that China had never accepted gradual relinquishment as a basis for negotiation but was ready to discuss the various legal guarantees.	770
Mar. 21 (81)	<i>From the Ambassador in Great Britain (tel.)</i> Transmittal of an informal letter from the British Foreign Office (text printed) indicating Lampson's unexpectedly rapid progress in the negotiations.	771
Mar. 21 (15)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Department's comments on the tentative texts quoted in the Minister's telegram of March 17.	772
Mar. 24 (16)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Transmittal of information received from British Foreign Office on progress of British negotiations; advice regarding Department's discussions with the Chinese Minister, Dr. Wu. Department's desire (1) to avoid commitment, (2) to give the Chinese no opportunity for declaring a deadlock, and (3) to inject no factor to complicate the British negotiations.	775
Mar. 27	<i>From the Minister in China (tel.)</i> Report of Lampson's progress in the negotiations and his	777

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1931 Mar. 28	<i>From the Minister in China (tel.)</i> Transmittal of additional drafts (texts printed) tentatively agreed upon by the British Minister and the Chinese Foreign Minister in their latest conversation.	778
Mar. 28	<i>From the Minister in China (tel.)</i> Comments on the tentative drafts transmitted earlier in the day (<i>supra</i>); information that texts have been sent to the British Foreign Office for comment and approval, and that they are, with the exceptions indicated, acceptable to the Chinese.	782
Mar. 30	<i>Memorandum by the Minister in China</i> Conversation with Lampson, who related a discussion with Dr. Wang concerning the more vital principles of the negotiations.	784
Mar. 30	<i>From the Minister in China (tel.)</i> Opinion of the Minister and Lampson that the latter's conversation with Wang will lead Wang to try to obtain new instructions likely to bear fruit quickly; opinion of the Minister also that any efforts on his part to begin conversations at present might lead to a postponement of action.	786
Mar. 30	<i>From the Minister in China (tel.)</i> Information from Foreign Minister that Dr. Wu has been informed of the Wang-Lampson negotiations and has been instructed to press negotiations in Washington.	787
Mar. 31	<i>From the Minister in China (tel.)</i> Information that Lampson has been informed of material reported in telegram of March 30, 1 p. m. (<i>supra</i>); opinion that Dr. Wang desires to see if United States will go further than the British before resuming negotiations with them.	787
Mar. 31 (18)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Several changes desired by the Department in the drafts discussed in Minister's telegrams of March 28.	787
Apr. 1	<i>Memorandum by the Minister in China</i> Discussion with Lampson concerning the term of validity of the treaty on extraterritoriality and the matter of reserved areas; conclusion as to the latter subject that United States and Great Britain should hold out for the reservation of Tientsin and Shanghai.	788
Apr. 8	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the Chinese Minister</i> Submittal by Dr. Wu of a new draft providing for legal safeguards and taking account of the points under discussion by the British and Chinese at Nanking.	789
Apr. 10	<i>Memorandum by Mr. Ransford S. Miller of the Division of Far Eastern Affairs</i> Discussion, between the British Ambassador, the Secretary, and the Under Secretary, of the use of force or other possible measures in the event of unilateral denunciation of the treaties by the Chinese Government; agreement that the possible postponement of the National Convention and the presentation of a revised Chinese draft for discussion appeared to relieve the situation for the present.	790

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1931 Apr. 13	<i>Memorandum by the Minister in China</i> Conversation with the Foreign Minister, who inquired as to the American attitude toward extraterritoriality negotiations and was informed that United States was desirous of reaching an understanding based on gradual relinquishment.	791
Apr. 15 (23)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Advice that the views of the Department are in accord with the Minister's remarks made to the British Minister, as set forth in the former's memorandum of April 1.	793
Apr. 17 (25)	<i>To the Consul General at Nanking (tel.)</i> Information that the 12 articles of the Chinese draft appear substantially acceptable provided that additional articles can be agreed upon later.	794
Apr. 18	<i>Memorandum by the Minister in China</i> Conversation with Lampson, who stated that the Chinese Minister in London had been handed an <i>aide-memoire</i> outlining conditions under which the British Government was prepared to relinquish extraterritorial rights, giving up criminal jurisdiction provided Shanghai, Tientsin, Hankow, and Canton were excluded from the treaty.	795
Apr. 19	<i>From the Minister in China (tel.)</i> Transmittal of amendments (texts printed) introduced into the previously prepared texts by agreement between Lampson and Wang.	795
Apr. 19	<i>From the Minister in China (tel.)</i> Transmittal of draft articles (texts printed) covering military service, arrests, and shipping, worked out <i>ad referendum</i> between the British Minister and Dr. Wang, neither being committed to their acceptance.	797
Apr. 20	<i>From the Minister in China (tel.)</i> Comments on the new drafts and amendments telegraphed to the Department on April 19; further information on status of Lampson-Wang negotiations.	800
Apr. 21	<i>Memorandum by the Minister in China</i> Conversation with the Vice Foreign Minister, who said that Wang was prepared to propose to his Government the exclusion of Shanghai from Chinese jurisdiction, and that if the treaties were not signed by May 5, his Government would unilaterally denounce extraterritoriality.	802
Apr. 21	<i>From the Minister in China (tel.)</i> Information as to French Minister's attitude. Opinion that the proposals advanced so far, plus the exclusion of Shanghai, should be satisfactory to the United States.	804
Apr. 22	<i>Memorandum by the Minister in China</i> Conversation with the Vice Foreign Minister, who said that the Commission on Foreign Relations was prepared to consider the request for the exclusion of Shanghai for a limited time.	805

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1931 Apr. 23	<i>From the Minister in China (tel.)</i> Comment that the American Minister and Lampson consider the Department's suggested draft of article 9, given in its telegram No. 12, March 14, an excellent substitute for the former draft; Lampson's opinion that the Chinese will yield in the cases of both Shanghai and Tientsin.	806
Apr. 23	<i>From the Minister in China (tel.)</i> Receipt from Lampson of information showing the number of the articles so far discussed as agreed upon with Hsu Mo, of the Chinese Foreign Office and list of articles yet to be dealt with.	807
Apr. 23	<i>Memorandum by the Minister in China</i> Conversation with the Vice Foreign Minister, who stated that Dr. Wang believed the treaty would be signed within a few days and that the American Minister should make inquiry of the State Department and, if necessary, obtain authorization so that the treaty could be completed in Nanking simultaneously between China, the United States, and Great Britain.	808
Apr. 24	<i>From the Minister in China (tel.)</i> Information that the Norwegian Minister has effected an exchange of notes with China giving up extraterritorial rights on a most-favored-nation basis if and when powers participating in the Washington Conference on Pacific affairs relinquish such rights. Understanding that the Netherlands is negotiating for a similar exchange.	809
Apr. 25 (27)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Department's willingness to meet China's wishes as to place of signature; opinion that a formal request should be received from the Chinese Government, through Minister Wu, before the issuance of full powers to the Minister in China; that time will be needed to scrutinize text prior to signing. Information that a tentative accord on certain articles has been reached in Washington, and that these texts and others on remaining subjects may be telegraphed soon.	809
Apr. 25 (106)	<i>To the Ambassador in Great Britain (tel.)</i> Transmittal of portion of Department's telegram No. 27, April 25 (<i>supra</i>); advice that Department is trying to parallel Chinese-British accords as far as possible. Instructions to inform British Foreign Office.	811
Apr. 27	<i>Memorandum by the Minister in China</i> Conversation with Dr. Wang, who was informed of Department's views concerning place of signature, issuance of full powers, and necessity for adequate scrutinization of the text.	811
Apr. 27	<i>From the Minister in China (tel.)</i> Information that Lampson has been informed of Department's attitude as expressed in telegram No. 27 of April 25; account of further discussions between Teichman and Hsu Mo.	812

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1931 Apr. 27	<i>Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs</i> Conversation with the Chinese Minister and the Third Secretary of the Legation, who were handed a new draft regarding extraterritoriality.	813
Undated	<i>To the Chinese Legation</i> Text of Department's revised draft of treaty and of exchange of notes handed to the Chinese Minister on April 27.	815
Apr. 28	<i>Memorandum by the Minister in China</i> Information from Lampson concerning conversation with Wang, who said his final terms were the reservation of the International Settlement at Shanghai for not more than 3 years.	827
Apr. 28	<i>From the Minister in China (tel.)</i> Information from the British Minister of his present position regarding the negotiations, and of modifications of some articles (texts printed).	829
Apr. 29	<i>Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs of a Conversation Between the Chinese Minister and the Chief of the Division</i> Chinese Minister's information that Dr. Wang may be able to submit to the Political Council a proposal for the exclusion of the International Settlement at Shanghai from the scope of the new treaty for a period of 3 years.	831
Undated [Rec'd Apr. 29]	<i>From the Chinese Legation</i> Text of the Chinese draft article in regard to the rights of residence and trade.	832
Apr. 30 (110)	<i>To the Ambassador in Great Britain (tel.)</i> Desire to know British views concerning Dr. Wang's final terms regarding Shanghai; opinion that the British and American Governments should firmly refuse to be moved from the position taken regarding excluded areas.	832
May 1	<i>Memorandum by the Minister in China</i> Report of a conversation between Lampson and Wang in which the latter was informed that the British found his final offer unacceptable; information that Lampson has proposed further discussions.	833
May 1 (127)	<i>From the Ambassador in Great Britain (tel.)</i> British inability to consent to fixing a time limit to surrender jurisdiction in the Shanghai International Settlement.	834
May 3	<i>Memorandum by the American Counselor of Legation in China of a Conversation Between the American Minister in China and the French Minister in China</i> Inquiry by the French Minister as to the status of the British and American negotiations; assurance by the American Minister that it was not likely that signature would take place in the immediate future.	835
May 4	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Chinese Minister in which he was informed that United States would listen to suggestions for a territorial delimitation of excluded areas but would not	835

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May 4	<i>From the Minister in China (tel.)</i> Information from the British Minister that the Chinese find American proposals on personal status more acceptable than the British. Request for the American text for the information of the British Minister.	836
May 4	<i>Memorandum by the Minister in China</i> Further discussion between Lampson and Wang on the question of reserved areas.	837
May 4 (33)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Transmittal of draft article on personal status. Possibility that British and American texts may be worked into something acceptable to the three Governments.	837
May 5	<i>From the Minister in China (tel.)</i> Report that People's Conference met in the morning; that mandate issued May 4 puts regulations governing jurisdiction over foreigners into effect January 1, 1932.	838
May 6	<i>Memorandum by the Minister in China</i> Conversation with Dr. Wang, who expressed concern over a report that the United States had attempted to persuade the British not to go so fast in meeting the Chinese desires; his request for confirmation by the Department.	839
May 6	<i>Memorandum by the American Minister in China of a Conversation With the Chinese Minister for Foreign Affairs</i> Discussion of the points insisted upon by the United States; Dr. Wang's reiteration that his Government must insist on a term of not more than 3 years, although it might concede the exclusion of the area of Greater Shanghai.	840
May 6	<i>Memorandum by the Minister in China</i> Discussion with Lampson, who was at a loss to understand the motive behind Dr. Wang's statement regarding U. S. attempt to dissuade British from going too fast in meeting Chinese wishes, but stated that he himself had observed to Dr. Wang that all the powers, including the United States, felt that the British were going too fast in the negotiations.	841
May 7	<i>From the Minister in China (tel.)</i> Transmittal of changes made by the British in personal status draft which is now being considered by Hsu Mo.	842
May 8 (34)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Instructions to keep in close touch with Lampson and, if expedient, to inform him of this Government's willingness to drop the reservation of Hankow simultaneously with the British.	843
May 8	<i>Memorandum by the Minister in China</i> Conversation with the Japanese Chargé, who said that Japan was anxious to reach an accord with China on extraterritoriality; that Japan's position was more complicated because of her interests in Manchuria.	843

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1931 May 8	<i>Memorandum by the American Minister in China of a Conversation With the British Minister in China</i> Information from Lampson that he had suggested to his Government the continuation of negotiations until agreement on certain points, when it would be time for a summer recess, after which negotiations could be resumed with a better chance for success.	844
May 8 (35)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Instructions for reply to Dr. Wang concerning his reference to a report of U. S. attempt to dissuade British from going too fast in meeting Chinese wishes. Explanation of Department's position on various points under discussion.	845
May 8 (36)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Suggestion, in view of the possibility of a revision in 1934 of the Chinese-American treaty of 1903, of an exchange of notes (draft printed) defining consular rights and privileges. Instructions to consult with Lampson and report.	848
May 9	<i>To the British Ambassador</i> Acknowledgment of a communication from the British Embassy indicating the British position on certain points; Department's interest in the British suggestion of an international commission to study and make recommendations regarding excluded areas.	849
May 9	<i>From the Minister in China (tel.)</i> Transmittal of draft article on personal status (text printed), worked out by Teichman and Hsu Mo, and recommended by the British Minister to his Government as probably acceptable to the Chinese.	850
May 9 (38)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Instructions to make note of certain features of Department's draft of April 27, to compare this draft with the Chinese-British draft, discuss with Lampson, and report.	850
May 12 (40)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Advice that the Department is willing to accept the Teichman-Hsu Mo draft article regarding personal status if it is acceptable to the British and Chinese and if the reciprocity clause is deleted.	851
May 13 (130)	<i>To the Ambassador in Great Britain (tel.)</i> Advice from British Embassy that the British Government fears lest the American negotiations have conceded more than the British deem it wise to surrender in the question of personal status; opinion of the Department that this is another example of Chinese effort to play off Americans and British in order to obtain further concessions.	852
May 13 (21)	<i>From the Consul General at Nanking (tel.)</i> Issuance by the National People's Convention of a manifesto (substance printed) declaring (1) that the people do not accord recognition to any of the unequal treaties previously concluded between the foreign nations and China, and (2) that the National Government will put into realization the freedom	853

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May 15 (147)	<i>From the Ambassador in Great Britain (tel.)</i> Information that the British Foreign Office concurs in the Department's opinion expressed in telegram No. 130, May 13.	854
May 19	<i>From the Minister in China (tel.)</i> Information that British desire a change in the personal status draft but that the Chinese are unwilling to accept it; transmittal of revised texts of British-Chinese draft articles, notes, and letters (texts printed).	854
May 19	<i>From the Minister in China (tel.)</i> Transmittal of British revision (text printed) of second paragraph of personal status article, and suggestion that the change be incorporated in the American draft for discussion with Dr. Wu.	857
May 19	<i>From the Minister in China (tel.)</i> Information from Lampson that the British feel it would not be opportune at present to bring up question of a consular convention with China, and that they expect to take up subject of consular rights in a commercial treaty after extraterritoriality has been disposed of.	857
May 19	<i>From the Minister in China (tel.)</i> Request for instructions in the event the Foreign Office officially transmits the text of its mandate and regulations mentioned in telegram of May 5.	858
May 20	<i>From the Minister in China (tel.)</i> Review of the status of the negotiations; comments on American draft, as requested in Department's No. 38, May 9.	858
May 20 (42)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: U. S. attitude in case of Chinese official communication of the recent mandate and regulations.	860
May 20 (43)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Advice that the Department's interest in concluding an exchange of notes on consular rights and privileges arises from a desire to remove the question from the realm of "interpretation"; expectation of discussing the question with Dr. Wu.	861
May 20 (44)	<i>To the Consul General at Nanking (tel.)</i> Instructions to inform Department of the approximate boundaries of the reserved areas shown on the maps to be submitted by the British with article 16.	862
May 21	<i>Memorandum by the Minister in China</i> Inquiry by Dr. Wang as to U. S. attitude toward the payment of Chinese taxes by American citizens, and his observation that when foreign citizens resident in the International Settlement and foreign concessions had to pay Chinese taxes, "die-hardism" would vanish.	862

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1931 May 23	<i>From the Minister in China (tel.)</i> Information that no maps have as yet been introduced into the discussion of reserved areas, but that maps of the municipal areas of the cities will be forwarded.	863
May 23	<i>From the Minister in China (tel.)</i> Information that the British and American Ministers agree that an exchange of notes on consular rights would be desirable.	863
May 24	<i>From the Minister in China (tel.)</i> Transmittal of draft of article 21 (text printed) as accepted by the Chinese and sent to London for approval; information that the British Minister will insist upon a 10-year term for the treaty and 5 years for special provisions.	863
May 26	<i>From the Minister in China (tel.)</i> Transmittal of Lampson-Wang draft of article 16 and exchange of notes (texts printed) regarding reserved areas.	864
May 27	<i>Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs of a Conversation Between the Chief of the Division and the Chinese Minister</i> Proposal by Dr. Wu of his Government's willingness to exclude "Greater Shanghai" for a 3-year period in return for negotiations on the extra-Settlement road question at Shanghai; arrangement for redrafting some of the articles of Department's April 27 draft.	866
May 27	<i>To the British Ambassador</i> Acknowledgment of receipt of summary of correspondence between Foreign Office and British Minister in China, and concurrence in the views expressed on reserved areas.	867
May 29	<i>From the Minister in China (tel.)</i> Comments and suggestions after comparison of latest Sino-British draft with Department's draft; text of the draft article on excluded areas which is being submitted to the British Government for approval.	868
May 30	<i>From the Minister in China (tel.)</i> Information that the British Minister is still awaiting the reaction of his Government on texts submitted; opinion that, because of the Chinese political situation, it is better for United States to leave the question of reserved areas without commitment and await Chinese initiative.	869
June 2	<i>Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs of a Conversation With the Third Secretary of the Chinese Legation</i> Comments on the unfinished and controversial points of the re-draft of the Department's April 27 draft.	870
June 3	<i>To the Consul General at Shanghai (tel.)</i> For the Minister: Inquiry concerning the Sino-British provision regarding the Chinese legal counselor.	872
June 4	<i>From the Minister in China (tel.)</i> Transmittal of pertinent paragraph of Sino-British declaration on legal counselors (text printed), giving Chinese legal counselor the same functions as the other legal counselors.	873

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June 6	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the Chinese Minister</i> Inquiry by Dr. Wu as to Department's attitude toward the Chinese proposal for the reservation of Greater Shanghai; Mr. Hornbeck's opinion that there should be four reserved areas.	873
June 8	<i>From the Minister in China (tel.)</i> Information that, upon Dr. Wang's refusal to accept British Foreign Office's new version of article 21, Lampson agreed to alterations, subject to final approval by both Governments, and that Lampson and Wang then signed and exchanged the letters on June 6; that Lampson departed for Peiping and will not return unless instructed or unless it is possible to sign a treaty.	874
June 8	<i>From the Minister in China (tel.)</i> Transmittal of article 21 and of the letters exchanged between Lampson and Wang (texts printed).	875
June 12 (184)	<i>From the Chargé in Great Britain (tel.)</i> Information that Dr. Wang was not optimistic as to his Government's approval of the Tientsin reservation, and that the British Foreign Office is concerned over the status of British residents in case the treaty safeguards and the Shanghai reservations are made coterminous.	876
June 13	<i>From the Minister in China (tel.)</i> Information that Consul General Peck at Nanking has received a formal note from Foreign Ministry (substance printed) announcing the resignation of Minister Wu and proposing that the negotiations be continued in Nanking; also a personal letter from Dr. Wang requesting American Minister's return to Nanking. Request for instructions.	877
June 16	<i>To the Consul General at Shanghai (tel.)</i> For the Minister: Instructions to telegraph the full text of the formal note and to return to Nanking in order that Wang may indicate what he has in mind; advice that the Sino-British text is not entirely what the Department would wish to duplicate, and that the Department desires that Wang be requested to instruct the Chinese Legation to continue its work on the draft with the Department.	877
June 17	<i>From the Minister in China (tel.)</i> Transmittal of the formal note and the personal letter (texts printed) received by Peck; information that the Minister is proceeding to Nanking.	879
June 20	<i>Memorandum by the American Minister in China of a Conversation With the Chinese Minister for Foreign Affairs</i> Dr. Wang's consent to the continuation of the discussions now going on in Washington; and his discussion of the Sino-British draft for the reservation of Shanghai and Tientsin.	879
June 21	<i>Memorandum by the American Minister in China of a Conversation With the Japanese Chargé in China</i> Outline of the terms presented to Dr. Wang by the Japanese Chargé under which Japan would consider relinquishment of its extraterritorial rights in China.	881

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NEGOTIATIONS FOR RELINQUISHMENT BY THE UNITED STATES AND OTHER POWERS
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Date and number	Subject	Page
1931		
June 21	<i>From the Minister in China (tel.)</i> Suggestion [that some arrangement covering patents and copyrights be incorporated in the treaty.	881
June 22	<i>To the Consul General at Shanghai (tel.)</i> For the Minister: Authorization to return to Peiping on June 26.	882
June 23	<i>From the Minister in China (tel.)</i> Opinion that the Japanese Government will be unyielding in what it considers its position in Manchuria under the treaties of 1915.	882
June 24	<i>From the Minister in China (tel.)</i> Comments on the views expressed in the Department's telegram of June 16.	883
June 27	<i>Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs</i> Information that a new draft has been prepared by Weigh and Jacobs in which three points remain unfinished: (1) reserved areas, (2) ratification, and (3) exchange of notes; suggestion that the draft be submitted to the Solicitor for comment and then mailed to the Minister in China.	884
June 30 (379)	<i>From the Minister in China (tel.)</i> Information from Lampson that his Government has approved his action in the negotiations except for article 16, on which he is awaiting comment.	885
July 2	<i>Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs</i> Further discussions with Weigh on certain paragraphs of the draft.	886
July 6 (536)	<i>To the Minister in China</i> Transmittal of draft prepared by the Department and the Chinese Legation, with the article on reserved areas blank. Advice that instructions in regard to the draft and future negotiations will follow.	887
July 8	<i>Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs</i> Changes made by Jacobs and Weigh in the light of comments of the Assistant to the Legal Adviser.	888
July 13 (228)	<i>To the Minister in China (tel.)</i> Advice that the Department is mailing to London, for the consideration of the British Foreign Office, a memorandum (excerpt printed) concerning article 16 (reserved areas), together with texts of the draft article and the exchange of notes relating thereto (texts printed).	890
Undated	<i>Draft of a Treaty Between China and the United States of America, Revised as of July 14, 1931</i> Treaty text, together with declarations and exchanges of notes, tentative and without commitment.	893

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Date and number	Subject	Page
1931		
July 17 (550)	<i>To the Minister in China</i> Transmittal of Department's draft of July 14 and of an additional paragraph (text printed), concerning patents and copyrights, for insertion in the Joint Declaration if the Foreign Minister agrees.	908
July 30 (471)	<i>From the Minister in China (tel.)</i> Inquiry as to whether it would be expedient, by supplementary legislation and treaty, to place Chinese aliens under jurisdiction of Federal courts in personal status matters, thereby permitting the use of the British reciprocal clause.	909
Aug. 3 (486)	<i>From the Minister in China (tel.)</i> Suggestion that the clause excluding the area of Greater Shanghai from the application of the treaty might be dangerous, as it might be desirable to have certain provisions applied in this area; suggestion of a change in wording.	910
Aug. 10 (270)	<i>To the Minister in China (tel.)</i> Department's reasons for not wishing to undertake, by treaty and supplementary legislation, the placing of Chinese aliens under the jurisdiction of Federal courts in personal status matters; transmittal of alternative wording, possibly more acceptable to the Chinese.	910
Aug. 31	<i>Memorandum by the Minister in China</i> Discussion with Lampson of the advisability of introducing a proposal providing that a foreign defendant be permitted to be accompanied by his lawyer in the course of trials before a procurator.	911
Sept. 4 (569)	<i>From the Minister in China (tel.)</i> Inquiry as to the Department's purpose in dropping certain words which were used in the British draft.	911
Sept. 10 (320)	<i>To the Minister in China (tel.)</i> Department's position with respect to the clause questioned in the Minister's telegram No. 486, August 3. Information that the Department, with a view to guarding against double taxation, has revised the paragraph (excerpt printed) regarding taxation in the Shanghai and Tientsin areas.	912
Sept. 10 (321)	<i>To the Minister in China (tel.)</i> Explanation of the omission from the Department's draft of certain words contained in the British draft.	913
Sept. 17 (592)	<i>From the Minister in China (tel.)</i> Receipt, through Peck, of a personal letter from Wang (text printed) requesting the Minister's return to Nanking and the resumption of the negotiations; opinion that there is no reason for not proceeding with the negotiations, although the British hope for delay on the part of the United States.	914
Sept. 18 (328)	<i>To the Minister in China (tel.)</i> Information that the Department has received no comment from the British on its memorandum of July 14 and infers that the British wish to defer commitment, hoping for American delay. Instructions to proceed to Nanking on other matters and await instructions concerning extraterritoriality.	915

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NEGOTIATIONS FOR RELINQUISHMENT BY THE UNITED STATES AND OTHER POWERS
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Date and number	Subject	Page
1931 Sept. 24 (337)	<i>To the Minister in China (tel.)</i> Instructions to reply to Dr. Wang that this Government had actually instructed the minister to be prepared to go to Nanking, but that recent events have resulted in his instructions to remain in Peiping.	916
Oct. 6 (709)	<i>From the Minister in China (tel.)</i> Information that the British are not ready to agree to a new proposal regarding Shanghai, but that they believe American negotiations should go ahead with a view to ascertaining the Chinese attitude.	916
Oct. 6 (2297)	<i>From the Ambassador in Great Britain</i> Information that Department's memorandum of July 14 was delivered to the British Foreign Office and that a reply, dated October 5, is being forwarded.	917
Oct. 26 (101)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Advice that a memorandum received from the British Foreign Office, dated October 5, shows a decided preference for the Sino-British draft on reserved areas; Department's opinion that discussion of extraterritoriality with the Chinese might be left in abeyance for the present. Instructions to discuss the British memorandum with Lampson if he has received a copy.	917
Oct. 27 (964)	<i>To the Ambassador in Great Britain</i> U. S. reply (text printed) to the Foreign Office memorandum of October 5, advising that the Department will keep in mind British views on reserved areas.	918
Nov. 2	<i>From the Minister in China (tel.)</i> Opinion of the British and American Ministers that, if the Chinese resolve their differences, it would be wise to continue negotiations with the hope of an agreement by the end of 1931. Request for instructions as to sounding out the views of a new Foreign Minister, if one is installed.	919
Dec. 1 (129)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Instructions to consult informally with the Acting Foreign Minister and to suggest, if advisable, that the Department will authorize resumption of negotiations if he desires, but believes the question should remain in abeyance for the present.	920
Dec. 15	<i>From the Minister in China (tel.)</i> Information that no steps have been taken to implement the Chinese mandate of May 4, and that the political situation is so disturbed as to delay serious discussions on extraterritoriality for some time.	921
Dec. 17 (137)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Advice that the Department has had certain indications that, although complete preparations for implementing the May 4 mandate have not been effected, steps have been taken which may lead to unfortunate incidents after January 1.	922

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NEGOTIATIONS FOR RELINQUISHMENT BY THE UNITED STATES AND OTHER POWERS
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Date and number	Subject	Page
1931 Dec. 19	<i>From the Minister in China (tel.)</i> Discussion with the Acting Foreign Minister, Dr. Koo, concerning the mandate and the question of resumption of negotiations; opinion of Koo that U. S. readiness to continue negotiations would greatly aid in the handling of the mandate problem.	923
Dec. 19	<i>From the Minister in China (tel.)</i> Information from Dr. Wu that the Government is going to be preoccupied with reorganization during the next 2 weeks.	924
Dec. 19 (139)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Request for comments and suggestions in view of the possibility that the Chinese will implement the mandate.	924
Dec. 19	<i>To the Chinese Legation</i> Advice that U. S. Government is prepared to continue extraterritoriality negotiations at any time, but that the moment does not appear opportune and it would seem advisable to let the matter continue in suspension.	924
Dec. 21	<i>From the Minister in China (tel.)</i> Impossibility of anticipating what action the Chinese may take on the mandate; suggestion that the only course left to United States if Chinese Government attempts to put mandate into effect, is to notify the Government of the unacceptability of the situation and to point out U. S. willingness to continue negotiations.	925
Dec. 23	<i>Memorandum by the Under Secretary of State</i> Conversation with the British Ambassador, who brought in a memorandum giving the substance of instructions to Lampson and inquired as to the Department's attitude; Under Secretary's assertion that United States would stand firmly on its treaty rights in the event the mandate was put into effect.	926
Dec. 28	<i>To the British Embassy</i> Outline of the Department's views on the status of extraterritoriality; opinion that the question of the enforcement of the mandate of May 4 may arise in some case involving an extraterritorial foreigner and that in the event of the foreigner's being an American national, the United States would find it necessary to lodge a vigorous protest and to stand upon its treaty rights.	927
Dec. 29	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the British Ambassador</i> Informal suggestion by Hornbeck that the powers most interested in extraterritoriality arrive at an informal understanding enabling them to prepare in advance for simultaneous and similar action in case the Chinese should attempt jurisdiction over an extraterritorial national by virtue of the mandate; Ambassador's view that it would be best to confine the understanding to the British and American Governments.	928
Dec. 30 (1152)	<i>From the Minister in China (tel.)</i> From Nanking: Issuance of mandate, December 29, by the Chinese Government postponing the effective date of the mandate of May 4.	931

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NEGOTIATIONS FOR RELINQUISHMENT BY THE UNITED STATES AND OTHER POWERS
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Date and number	Subject	Page
1931 Dec. 31 (1158)	<i>From the Minister in China (tel.)</i> From Nanking: Transmittal of the mandate of December 29 (text printed).	931
Dec. 31 (476)	<i>To the Minister in China (tel.)</i> Outline of points for the Minister's guidance in the event any question or difficulty should arise involving jurisdiction over American nationals.	932

MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN
LIVES AND PROPERTY IN CHINA

1931 Jan. 19 (373)	<i>To the Minister in China</i> Instructions for consular officers to continue advising American citizens not to travel or reside in unsafe areas; for them to advise Chinese authorities that, while consular officers desire to cooperate in the prevention of untoward incidents, notification to them of the unsafe condition of certain areas does not remove the responsibility placed by existing treaties upon the Chinese Government for the protection of American citizens.	933
Jan. 20 (32)	<i>From the Minister in China (tel.)</i> From Hankow: Information that Rev. Bert N. Nelson (American Missionary kidnaped in 1930) has been removed to Anhwei and that the military authorities have been urged to effect his release; suggestion that the case be brought again to the attention of the Nanking authorities.	934
Jan. 26 (7)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of firing on the U. S. S. <i>Tutuila</i> and the <i>Mei Lu</i> , Standard Oil Company vessel, above Hankow.	934
Jan. 26 (381)	<i>To the Minister in China</i> Authorization to inform the Foreign Ministry that the United States is in sympathy with the Chinese Government's efforts to curtail smuggling and similar malpractices but feels that there should be recorded full reservation of treaty rights for American vessels in Chinese waters; comments on Chinese practices as compared with U. S. Coast Guard procedure.	935
Jan. 31 (49)	<i>From the Minister in China (tel.)</i> To Nanking: Telegram from Hankow (text printed) giving the whereabouts of Nelson and Fvædt (Norwegian missionary) and bandits' demands for medicines and cash for their release; instructions to request the Foreign Ministry to urge the military to press this matter to a conclusion.	936
Feb. 2 (50)	<i>From the Minister in China (tel.)</i> To Nanking: Communication from Hankow (text printed) advising that Mayor Liu Wen-tao promised to attempt to effect Nelson's release through Chiang Kai-shek.	936
Feb. 2 (8)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of firing upon the U. S. gunboat <i>Panay</i> and the S. S. <i>Ichang</i> , Yangtze Rapid Steamship Company vessel, at Temple Hill.	937

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Date and number	Subject	Page
1931		
Feb. 3 (10)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of firing upon Yangtze Rapid Steamship Company vessels at Temple Hill and other points.	937
Feb. 4 (12)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of firing upon the U. S. S. <i>Oahu</i> and upon the <i>Mei Lu</i> .	937
Mar. 10 (115)	<i>From the Minister in China (tel.)</i> From Hankow: Report of a letter from Tvedt and one from Nelson (text printed) telling of beatings at the hands of the captors and their strong demands for ransom money. Suggestion that a personal appeal to Chiang Kai-shek might stimulate the Chinese military to action or that the Department might lodge a protest with Dr. Wu, the Chinese Minister in Washington.	938
Mar. 10	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the Chinese Minister</i> Information for Dr. Wu that the American Minister in China has been instructed to bring the matter of Nelson's captivity to the attention of the highest Chinese authorities and that the Department hopes that Dr. Wu will urge upon his Government the importance of the matter.	939
Mar. 10	<i>To the Chinese Legation</i> Information of the treatment received by Nelson and Tvedt from the bandits, and expression of hope that the Chinese Government will make every possible effort to effect the release of the men.	939
Mar. 10 (8)	<i>To the Consul at Nanking (tel.)</i> For the Minister: Instructions to make urgent representations to the Foreign Minister with a view to effecting immediate release of Nelson and Tvedt.	940
Mar. 11	<i>From the Minister in China (tel.)</i> To Hankow: Information that Foreign Minister is telegraphing authorities to use all means to effect release of the captives.	940
Mar. 12	<i>From the Minister in China (tel.)</i> From Hankow: Information that Skinsnes (American missionary) has been advised to send medicines and money, but that bandit activities further complicate the situation.	941
Mar. 14 (21)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of Skinsnes' activities and of a letter from Nelson expressing gratitude for the efforts to effect his release.	941
Mar. 16 (22)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Promise of General Ho Chen-chun that he would telegraph General Chao Kwan-tao to issue a permit for Dr. Skinsnes' messenger to carry medicines to the brigands' camp; belief that the only plan offering hope is sending money and medicines.	941
Mar. 17 (142)	<i>From the Minister in China (tel.)</i> Information that the Foreign Ministry will permit dispatch of medicines for ransom of Nelson.	942

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1931 Mar. 17 (23)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Receipt of telegram from Skinsnes (text printed) reporting a letter from the captives as to their location and state of health.	942
Mar. 23 (27)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Information that messengers carrying money and medicines were robbed by comrades of the escort, and that a brother of Nelson and two others have left for Macheng with an escort.	943
Mar. 26 (170)	<i>From the Minister in China (tel.)</i> From Hankow: Telegram from Nelson's brother and his party (text printed) reporting refusal of the Macheng authorities to do anything; opinion that more pressure should be exerted from Nanking.	943
Mar. 28 (173)	<i>From the Minister in China (tel.)</i> (From the Counselor of Legation.) Information from the Minister that he has sent a telegram to Hankow (text printed) advising of the Foreign Ministry's promises to order an advance against the Red brigands to effect the release of Nelson and Tvedt, and requesting Hankow's confirmation of General Hsia's receipt of the orders and his action.	944
Mar. 30 (178)	<i>From the Minister in China (tel.)</i> (From the Counselor of Legation.) Hankow's telegram to the Minister at Nanking (text printed), advising that Nelson's brother has telegraphed from Macheng that General Hsia Touying has left for Hankow.	944
Apr. 2 (182)	<i>From the Minister in China (tel.)</i> (From the Counselor of Legation.) From Hankow: Telegram to Nanking (text printed) advising of the impression that the burden of rescuing the captives and suppressing the bandits has been placed upon Generals Li Ming-chung and Ho Chen-chun; belief that a drive will be started soon.	945
Apr. 2 (914)	<i>From the Minister in China</i> Review of correspondence and action taken in connection with the occupation by Chinese troops of mission property in Kiangsi and other places.	945
Apr. 6 (32)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of firing upon Iling above Ichang and of rumors of fighting in Szechuan between Liu Hsiang and Teng Shih-an factions.	952
Apr. 7	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of higher demands by bandits for the release of Nelson and Tvedt, and of plan for paying ransom through secret agents on condition that the captives are delivered to a designated point first.	953
Apr. 8	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the Chinese Minister</i> Expression of hope by Mr. Hornbeck that Nelson would be released soon; also that the Chinese Minister would give some thought to a memorandum handed to him on the Chinese occupation of mission property in Fukien Province.	953

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1931 Apr. 9 (34)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of firing upon the <i>Iping</i> by Government troops; opinion that an effort was being made to stop the vessel for search for Communists.	954
Apr. 13 (35)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Details of the firing upon the <i>Iping</i> and the casualties inflicted by the armed guard from the U. S. S. <i>Guam</i> in returning the fire. Information that General Koh has requested that representations be made to the American Minister.	954
Apr. 13	<i>From the Chinese Minister for Foreign Affairs to the American Minister in China</i> Transmittal of telegram from the Ichang Area Garrison Headquarters (text printed) concerning the <i>Iping</i> incident, and request for U. S. investigation and assurance that such incidents will not recur.	955
Apr. 18	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Reply to the Chinese representations concerning the <i>Iping</i> ; with explanation as to the firing by the armed guard; expression of regret for the incident, which was due apparently to a misunderstanding and the lack of information regarding Chinese procedure.	956
Apr. 18	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Protest to the Chinese Government concerning the boarding and commandeering of a Yangtze Rapid Steamship Company vessel by Government troops, and request that instructions be issued to prevent recurrence.	957
Apr. 20	<i>Memorandum by the Minister in China</i> Conversation with the Foreign Minister, who was informed in an <i>aide-memoire</i> of the capture by bandits of Esther Nordlund, an American citizen, and other missionaries. (Footnote: Report as to release of the missionaries later.)	957
Apr. 20 (38)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report of the release of Tvedt on payment of \$6,500 by mission authorities, and of prospect for early release of Nelson.	959
Apr. 21 (39)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: New demands of the bandits for gramophone records and other articles for the release of Nelson.	959
May 1	<i>From the Chinese Minister for Foreign Affairs to the American Minister in China</i> Transmittal of another communication from the Ichang Area Garrison Headquarters (text printed) concerning the <i>Iping</i> incident. Reservation of right to claim indemnification for Chinese losses.	959
May 4 (43)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Report that bandits have declined to release Nelson and are making further demands; that military operations have been started against Red brigands by Government troops.	960

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

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1931 May 11 (46)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Receipt of a telegram from Sungpu (text printed) reporting delay of messengers; information that military would not permit the delivery of materials for the ransom of Nelson.	961
May 20	<i>From the Consul General at Canton (tel.)</i> Report of fighting in Hainan and of British Consul General's request for naval assistance.	961
May 24	<i>From the Consul General at Canton (tel.)</i> Information that all American missionaries at Hoihow are safe; that the British vessel <i>Somme</i> will remain at Hoihow until the situation is normal.	962
May 29 (49)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Information that the go-between has not secured the release of Nelson but is returning to the bandits' headquarters to insist on his release on the conditions previously named and met.	962
June 9 (328)	<i>From the Minister in China (tel.)</i> From Foochow: Information that the Fifty-sixth National Division is planning to make a stand against the Reds and is outnumbered; request for a U. S. naval vessel at Foochow to afford the Consulate some means of communication with the Legation. (Footnote: Dispatch of the U. S. S. <i>Pillsbury</i> to Foochow.)	962
June 11 (54)	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Information that Nelson is well, that bandits have decided to keep him as an English teacher but are making still further demands for various articles.	963
June 16	<i>From the American Consul General at Hankow to the Chinese Chairman of the Hunan Provincial Government</i> Account of the halting and boarding of a Yangtze Rapid Steamship Company vessel under the authority of martial law, of which no notification had been given; request that the Consulate at Hankow be informed of search barriers or prohibited sailings in Hunan Province so that American shipping companies may be notified.	964
June 23	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the Apostolic Delegate to China</i> Discussion concerning the safety of missionaries in China, and related problems.	965
June 23 (311)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Reply to Chinese note of May 1 in regard to the <i>Iping</i> incident; request for advance notice on the institution of new procedure in order to avoid such incidents.	969
July 8 (397)	<i>From the Minister in China (tel.)</i> Information that the Chinese Government has formally fixed 12 nautical miles as a limit for the customs preventive service; assumption that Department will wish the Foreign Office to be informed that it cannot accept a unilateral claim of sovereignty beyond the customary 3-mile limit.	970

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1931 July 22 (238)	<i>To the Minister in China (tel.)</i> Instructions (in reply to the telegram, <i>supra</i>) that for the present no protest need be made.	971
July 31	<i>From the Minister in China to the Consul General at Nanking</i> <i>Aide-mémoire</i> for the Chinese Foreign Ministry (text printed) making representations in regard to the occupation and destruction of American mission property by Chinese troops.	971
Aug. 13 (L-71)	<i>From the Consul General at Nanking to the Minister in China</i> Delivery to the Foreign Minister of Department's <i>aide-mémoire</i> , with explanation that U. S. Government reserves the right to claim damages for losses inflicted by Chinese troops.	973
Aug. 31 (91)	<i>From the Consul General at Hankow (tel.)</i> Report of Communist firing upon a Standard Oil Company vessel and other Communist movements; opinion that the situation at Hankow may require increase of American naval forces for protection of Americans.	974
Oct. 17 (94)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Suggestion that on some appropriate occasion the Nelson case be taken up with the Foreign Ministry.	975
Nov. 25 (1005)	<i>From the Minister in China (tel.)</i> Information from Hankow that bandits consider Nelson a very important person and believe that he or his mission could raise an additional \$50,000 if necessary; request of Consul General at Hankow for authorization to send a communication to the bandits minimizing the importance of Nelson and stating that the American Government has never considered paying ransom for Nelson nor for any other American citizen in China; opinion of the Minister that this communication would be unwise, and request for Department's views.	975
Nov. 28 (442)	<i>To the Minister in China (tel.)</i> Department's opinion that communication should not be addressed to the bandits by the Consul General but that it might be addressed to Dr. Skinsnes, who might see that the substance became known to the bandits. Caution against any action that would lead the bandits to consider that the life and safety of Nelson are not of concern to the American Government.	977
Dec. 12 (125)	<i>From the Consul General at Hankow (tel.)</i> Report that Chinese soldiers of salt revenue guard boarded American motor vessel <i>Ifung</i> , and that upon their refusal to leave, American armed guard exploded tear gas bombs.	978
Dec. 18 (128)	<i>From the Consul General at Nanking (tel.)</i> Advice that Consulate General has circulated a letter to American citizens in the Kiangsu and Anhwei areas, advising them to retire from the interior unless, for exceptional reasons, they believe protection can and will be afforded them.	978
Dec. 23 (127)	<i>From the Consul General at Hankow (tel.)</i> Information that no representations have been made by the Chinese regarding the <i>Ifung</i> incident and are not believed likely.	979

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1931 Dec. 24	<i>From the Vice Consul at Foochow (tel.)</i> Report of the capture of Harriet J. Halverstadt, American missionary, and advice that Provincial Government is being urged to take prompt action for her release.	979
Dec. 27 (1133)	<i>From the Minister in China (tel.)</i> From Nanking: Information that the kidnaping of Miss Halverstadt has been taken up with the Foreign Office. From Foochow: Information that the Provincial Government is half-hearted in its efforts to obtain Miss Halverstadt's release, and that prospects of release are uncertain.	979
Dec. 30 (473)	<i>To the Minister in China (tel.)</i> Instructions to advise the Foreign Ministry of the Department's concern over the capture of Miss Halverstadt; also of its great anxiety with regard to the safety of American citizens in China.	980
Dec. 31 (1160)	<i>From the Minister in China (tel.)</i> From Nanking: Representations made to the Foreign Office over the capture of Miss Halverstadt. (Footnote: Miss Halverstadt's release, January 3, 1932.)	980

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE

1931 Jan. 21 (757)	<i>From the Minister in China</i> Report of the collection from American firms of a further duty at Shanghai after their payment of regular duties at the original port of shipment; information that the Foreign Ministry, in reply to the Legation's representations, made no attempt to justify or regularize the double collection of taxes; request for instructions on further action.	981
Jan. 26 (380)	<i>To the Minister in China</i> Department's observations, based on provisions of Sino-American treaty of 1844 and others, with respect to reported attempts of the Chinese military authorities in northern Hunan to extort forced loans from Chinese agents of an American company engaged in the sale of kerosene.	982
Jan. 29 (388)	<i>To the Minister in China</i> Comments concerning excessive fees charged by Shanghai authorities in licensing American plumbing contractors, and advice that the principles set forth in Department's instruction No. 546 of June 2, 1927, should be applied.	983
Feb. 4 (244)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Information of the collection of a military surtax at Hsiakwan on certain products imported into Kwangsi by the Standard Oil Company of New York; request that action be taken to discontinue the tax as it is in contravention of the decision of the National Government to abolish likin and similar taxes as from January 1, 1931.	985

CHINA

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION
IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE—Continued

Date and number	Subject	Page
1931 Feb. 16 (71)	<i>From the Minister in China (tel.)</i> From Hankow: Summary of provisional regulations governing the imposition of a business tax in Hupeh which is intended to be applicable to American firms. To Hankow: Information that provisional regulations are in violation of treaty rights, but that American firms should be informed and that any attempt to enforce the measures against them should be reported. Information that the Japanese have declined to comply with similar regulations at Hunan. Request for instructions.	986
Feb. 20 (62)	<i>To the Minister in China (tel.)</i> Instructions to authorize Hankow to inform the Chairman of the Hupeh Provincial Government that the regulations cannot be considered applicable to American firms.	987
Feb. 23 (26)	<i>From the Consul General at Canton to the Minister in China</i> Information that the Hsiakwan tax has been ordered discontinued and that the Standard Oil Company has been informed.	987
Feb. 24 (83)	<i>From the Minister in China (tel.)</i> Information regarding a tentative agreement between the consular body and the Consolidated Tax Administration of the Ministry of Finance for the application of rolled tobacco tax regulations in the International Settlement of Shanghai, applicable only to Chinese residents. Request for Department's instructions as to the desirability of the Legation's concurring in the agreement.	988
Feb. 27 (70)	<i>To the Minister in China (tel.)</i> Advice that Department perceives no objection to the agreement set forth in the Minister's telegram No. 83, February 24.	988
Mar. 1 (93)	<i>From the Minister in China (tel.)</i> Report from Hankow of possible strong efforts by authorities to collect business tax from foreign firms; efforts of authorities at Foochow and Chefoo to enforce a similar tax; British position that the tax is in violation of treaty rights. Inquiry as to what policy the Department desires to follow in this regard.	989
Mar. 6 (85)	<i>To the Minister in China (tel.)</i> Instructions to use Department's telegram No. 62, February 20, as a guide in answering inquiries concerning the business tax; authorization to make representations to Nanking in the event the Chinese attempt to enforce the tax.	990
Mar. 6 (107)	<i>From the Minister in China (tel.)</i> From Nanking: Information that procedure for collection of business tax has not yet been promulgated.	990
Mar. 24 (434)	<i>To the Minister in China</i> Instructions, in connection with the double collection of export dues from American firms at Shanghai, to make further representations to the Chinese Government, basing the request for refund of duties on general principles of international law and U. S.-Chinese treaties. (Footnote: Information that Minister sent a note to the Foreign Minister dated May 8.)	991

CHINA

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION
IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE—Continued

Date and number	Subject	Page
1931 Apr. 11 (932)	<i>From the Minister in China</i> Information concerning the collection from American citizens in Tsinanfu of a Chinese house tax, considered non-discriminatory by the American Consul at Tsinan, who has suggested its payment as a voluntary contribution toward the support of municipal services and has secured exemption for American missionary residences. Recommendation that the Consul's action be approved.	992
May 19 (494)	<i>To the Minister in China</i> Approval of the action taken by the Consul at Tsinan in regard to the Chinese house tax.	993
June 25 (367)	<i>From the Minister in China (tel.)</i> Information that the new business tax law has been passed by the Legislative Yuan but not promulgated by the State Council; that the Foreign Ministry states that it does not contravene the principles of taxation and requests that American merchants be instructed to pay it.	993
June 30 (380)	<i>From the Minister in China (tel.)</i> Information of proposed 25 percent surtax on customs duties at Foochow and of a products tax at Hankow, reported in telegrams from the respective Consuls (texts printed); transmittal for Department's approval of a proposed reply to Foochow (text printed), and inquiry as to Department's attitude toward a protest against the Hankow tax on the grounds of lack of notice to American firms concerned.	993
July 3 (220)	<i>To the Minister in China (tel.)</i> Advice that the Department is studying the taxation questions raised in the Minister's telegram No. 380, June 30, but, pending further instructions, approves the proposed reply to Foochow.	994
July 15 (230)	<i>To the Minister in China (tel.)</i> Instructions to oppose any attempt of Chinese municipal authorities at Shanghai to enforce new foreshore-property regulations against American nationals.	995
July 23 (456)	<i>From the Minister in China (tel.)</i> Information concerning consular body's proposal with respect to extending the agreement concerning the application of the rolled tobacco consolidated tax to non-extraterritorial foreigners in the Shanghai International Settlement. Request for instructions.	996
July 27 (249)	<i>To the Minister in China (tel.)</i> Approval of protest against surtax at Foochow, and outline of bases for representations in case authorities attempt to collect the surtax; opinion that Hunan and Hopei taxes appear to be objectionable on the same grounds.	998
July 31 (256)	<i>To the Minister in China (tel.)</i> Concurrence in Legation's views that any change in the existing agreement for the application of the rolled tobacco consolidated tax should be made by following the same procedure which brought about the agreement. Instructions to refer any proposed modification to the Department for approval.	1000

CHINA

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION
IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE—Continued

Date and number	Subject	Page
1931 Aug. 11 (508)	<i>From the Minister in China (tel.)</i> Proposed note to the Chinese Foreign Ministry (text printed) requesting that the new foreshore-property regulations be canceled or modified so as to ensure American rights. Information that the British have made a similar request.	1000
Aug. 17 (1123)	<i>From the Minister in China</i> Formal note to the Chinese Foreign Minister (text printed) pointing out the objectionable features of the new Chinese National Business Tax Law and requesting that the whole question be given careful consideration.	1001
Aug. 17 (278)	<i>To the Minister in China (tel.)</i> Approval of proposed note transmitted in the Minister's telegram No. 508, August 11, with deletion of one sentence and appropriate change in another.	1004
Sept. 15 (583)	<i>From the Minister in China (tel.)</i> From Shanghai: Information that foreshore regulations have been revised and that the Standard Oil Company has been approached again for permit fee.	1005
Sept. 25 (364)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Protest against certain taxes in Hunan collected in the form of surtax, and request that instructions be issued to stop collection of these imposts on American shipments.	1005
Oct. 3 (694)	<i>From the Minister in China (tel.)</i> Information from Shanghai that in revised foreshore regulations two points are involved: (1) application for a permit from Land Bureau and (2) payment of a license fee. Suggestion by Consul General at Shanghai and Minister's concurrence, that this be accepted as a compromise and American firms be advised that there is no objection to paying the fee.	1006
Oct. 9 (373)	<i>To the Minister in China (tel.)</i> Inquiry (1) as to whether official notification of the revised foreshore regulations has been received, (2) whether a reply has been received from the Foreign Ministry to the Legation's note of August 20 (authorized by Department's telegram No. 278, August 17), and (3) as to the British attitude.	1007
Oct. 20 (795)	<i>From the Minister in China (tel.)</i> Information that formal notification of the revised foreshore regulations was received in reply to Legation's note of August 20, and that the British believe that acceptance of the regulations is advisable if owners of riparian property are pressed by Chinese authorities.	1008
Nov. 9 (895)	<i>From the Minister in China (tel.)</i> Information from the Japanese Legation that the Japanese Government is not in a position to accept the revised foreshore regulations.	1008
Dec. 4 (376)	<i>From the American Minister in China to the Chinese Acting Minister for Foreign Affairs</i> Protest against a "Production-Consumption Tax" in Hunan, which is indistinguishable from likin, and request that instructions be issued to the proper authorities to effect the abolition of this tax.	1009

CHINA

APPLICATION OF CHINESE JURISDICTION TO AMERICAN MISSIONARY, EDUCATIONAL,
AND MEDICAL ENTERPRISES AND PERSONNEL IN CHINA

Date and number	Subject	Page
1931 June 3 (309)	<i>From the Minister in China (tel.)</i> Reports from Chefoo and Tientsin (texts printed) concerning new regulations requiring the registration of foreign physicians with Consuls; opinion that such registration would result in further encroachment by Chinese authorities upon extraterritorial privileges and in unfair pressure being brought to bear upon nonregistered physicians.	1010
June 16 (198)	<i>To the Minister in China (tel.)</i> Department's opinion that American physicians practicing in China are under American jurisdiction and not subject to Chinese authorities, but that in the absence of appropriate American laws, consular officers may properly comply with the Chinese request, subject to the understanding that jurisdiction over American citizens in China must be retained by appropriate American officials.	1011
July 10	<i>Memorandum by the American Consul General at Nanking of a Conversation With the Chinese Acting Minister of Education</i> Discussion of American interest in education in China; Consul General's reference to the registration with the Chinese authorities of many American institutions in China.	1012

RETENTION OF UNITED STATES ARMY FORCES IN CHINA

1931 Apr. 24 (26)	<i>To the Consul General at Nanking (tel.)</i> For the Minister: Information that the War Department has raised the question as to retaining further U. S. Army forces at Tientsin and has been informed by the Department that it would not be opportune at present to consider the question in view of the extraterritoriality negotiations. Request for opinion as to the withdrawal and as to the value of this Government's indicating its willingness in principle to take such action.	1013
Apr. 27	<i>From the Minister in China (tel.)</i> Opinion that the time will soon arise when the question of voluntarily withdrawing U. S. Army forces from Tientsin will arise, but that any mention now would be unwise and should be delayed until the conclusion of the extraterritoriality agreement.	1014
May 20	<i>To the Secretary of War</i> Opinion that American forces should not be removed from Tientsin without consulting other powers concerned, and that such action should not be taken until the situation in China has changed somewhat and certain questions under negotiation have been disposed of. Nonobjection to a gradual and inconspicuous reduction in the number of the force.	1015
June 29	<i>Memorandum by the Assistant Chief of the Division of Far Eastern Affairs of a Conversation With Major Hayes A. Kroner of the Military Intelligence Division, War Department</i> Discussion regarding a Washington press despatch released in Peiping reporting a reduction in American forces at Tientsin, to be effective September 1.	1015

CHINA

ATTITUDE OF THE DEPARTMENT OF STATE ON THE EXPORT TO CHINA OF ARMS OR MUNITIONS, INCLUDING MILITARY AIRCRAFT

Date and number	Subject	Page
1931		
June 8	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With Mr. Rogers of the Bureau of Aeronautics, Department of Commerce</i> Explanation of the Department's policy of exporting arms to China only on consignments known to be approved and desired by the Nanking Government; and of exportation of commercial planes without licenses.	1016
June 12	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the Counselor of the British Embassy</i> Observation by Mr. Hornbeck that the British policy, indicated by present holding up of shipments of arms for Canton in the absence of approval of the Nanking Government, appears to be identical with U. S. policy.	1018
June 24 (312)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Acknowledgment of note from the Foreign Ministry which requested that American merchants be instructed that no local government in China would be permitted to contract for the purchase of arms except under a permit from the Central Government; information that American consular officers in China are being informed for the benefit of interested persons.	1018
July 9 (406)	<i>From the Minister in China (tel.)</i> From Hong Kong: Complaint of local agent of L. E. Gale Company, American firm, that shipments of military supplies are being made freely from European countries to Hong Kong for the Cantonese Government.	1019
July 11 (417)	<i>From the Minister in China (tel.)</i> From Canton: Confirmation by Canton Aviation Bureau of shipments of military airships from England and Germany, and information from the Bureau that an order has been placed with an American company, probably L. E. Gale Company, for 12 American military airships to be exported as commercial aircraft and to be armed at Hong Kong.	1019
July 18 (237)	<i>To the Minister in China (tel.)</i> Instructions for Canton and Hong Kong to report through the Legation any instances of military equipment and airplanes being shipped from United States or other foreign countries to the Canton authorities, and to report cases of the use of commercial planes for military purposes.	1020
July 21 (41)	<i>From the Consul General at Nanking (tel.)</i> Request from the Chinese Finance Minister that the United States forbid the exportation of eight Lockheed Vega planes purchased by the Canton Government for conversion into military planes. Assertion by the United Aircraft Export Company that the British authorities at Hong Kong do not impede British sales of fighting planes to Canton.	1020
July 22 (42)	<i>From the Consul General at Nanking (tel.)</i> Receipt of an <i>aide-memoire</i> from the Chinese Foreign Office concerning the planes mentioned in telegram No. 41, July 21, requesting prohibition of export on the basis of U. S. regulations for the transportation of war materials. Information from the British authorities that the Barcelona Convention prevents their interfering with cargoes consigned to Canton.	1021

CHINA

ATTITUDE OF THE DEPARTMENT OF STATE ON THE EXPORT TO CHINA OF ARMS OR MUNITIONS, INCLUDING MILITARY AIRCRAFT—Continued

Date and number	Subject	Page
1931 July 27 (60)	<i>To the Consul General at Nanking (tel.)</i> Advice that the Department is taking steps to prevent exportation unless planes are accompanied by export licenses duly issued by this Department in conformity with the established requirements, but that it does not guarantee success of its efforts.	1022
July 30 (276)	<i>From the Ambassador in Great Britain (tel.)</i> Information from the British Foreign Office that export license for military materials is given only to shipments destined for and with the known sanction of the Nanking Government, that the Hong Kong Government is conforming to this policy, but that commercial planes can be exported to any place without an export license.	1022
July 31	<i>Memorandum by the Vice Consul at Nanking of a Conversation With Major Wu H-jeh-shek of the Aviation Bureau at Nanking</i> Assertion by Major Wu that the Cantonese have purchased planes from Great Britain and Germany, and his request that United States Government take all possible steps to prevent their purchase of civil model planes in view of the ease with which such planes can be fitted for military use.	1023
Aug. 1	<i>Memorandum by the Consul General at Nanking of a Conversation With the Assistant Director of the Department of General Affairs, Chinese Ministry of Foreign Affairs</i> Inquiry by the Chinese official as to the possibility of the United States' preventing the shipment of European planes to Canton through Manila.	1023
Aug. 5 (260)	<i>To the Minister in China (tel.)</i> Information from the War and Commerce Departments that Vought Corsair planes and Douglas planes, with the exception of amphibians, are primarily for military purposes, and that the Treasury Department is being notified of the State Department's opinion that these planes should be exported to China only on the issuance of an export license by the Department.	1024
Aug. 19 (1126)	<i>From the Minister in China</i> Note to the Foreign Minister advising that United States is taking steps with a view to preventing the shipment of eight Lockheed Vega planes to Canton.	1025
Oct. 23 (815)	<i>From the Minister in China (tel.)</i> From Canton: Report from Gale's Hong Kong representative concerning Far East Aviation Company's dealings with the Canton Aviation Bureau; his objection that British sales of military aircraft to Canton, if continued, would have adverse effect on American trade.	1026
Nov. 13 (990)	<i>To the Ambassador in Great Britain</i> Transmittal of copy of telegram No. 815, October 23, from the Minister in China, with instructions to bring this information to the attention of the Foreign Office and report any comments.	1026

CHINA

ATTITUDE OF THE DEPARTMENT OF STATE ON THE EXPORT TO CHINA OF ARMS OR MUNITIONS, INCLUDING MILITARY AIRCRAFT—Continued

Date and number	Subject	Page
1931 Dec. 12 (339)	<i>To the Ambassador in Great Britain (tel.)</i> Advice of the confirmation, by Department of Commerce data, of the telegraphic report from Canton transmitted in instruction No. 990, November 13. Request for early action and report.	1027
Dec. 14 (461)	<i>From the Ambassador in Great Britain (tel.)</i> Report that matter of British delivery of planes to Canton Aviation Bureau has been taken up with the Foreign Office but that the latter is not yet able to make comment.	1027
Dec. 23 (1340)	<i>From the Minister in China</i> Information that the difficulties encountered by American firms in the sale of aeroplanes in South China will probably disappear in the reorganization of the National Government; opinion that if a political reconciliation between the Chinese factions does not occur, it would appear unjust to handicap American merchants at Canton in view of British policy.	1027

PROTECTION OF TITLE DEEDS TO REAL PROPERTY OF AMERICANS IN CHINA

1931 Feb. 18 (814)	<i>From the Minister in China</i> Transmittal of a despatch from the Consul General at Shanghai (excerpt printed) reporting a decision of the High Court of Kiangsu excluding Americans and other foreigners (except possibly missionaries) from holding perpetual leases on land outside the definitely prescribed limits of treaty ports and foreign settlement areas. Opinion that such decision will lead to difficulties unless the extraterritoriality agreement provides a definite safeguard for such property rights.	1028
Feb. 26 (407)	<i>To the Minister in China</i> Instructions to advise American consular officers in China, except the Consul General at Shanghai, to take no further steps toward the issuance of title deeds to property in China in the name of an American citizen unless satisfied that there is substantial American interest in the property. Advice, however, that the International Settlement and the French Concession at Shanghai should come under a uniform practice established by all the powers concerned.	1028
Mar. 27 (172)	<i>From the Minister in China (tel.)</i> From Hankow: Information that vernacular newspapers have published a proclamation by the Municipal Government requiring the submission of "white deeds" for stamping before April 1 or the imposition of a fine; request for instructions, as owners of white deeds hesitate to submit them.	1030
Apr. 6 (120)	<i>To the Minister in China (tel.)</i> Advice that foreign land titles and fees on land transactions are questions being considered in the extraterritoriality negotiations and that American holders of white deeds must act, meanwhile, on their own judgment, but that if fees on previous land transactions are not involved, American purchasers would be wise to obtain red deeds when the procedure is based on reasonable Chinese legislation.	1031

CHINA

PROTECTION OF TITLE DEEDS TO REAL PROPERTY OF AMERICANS IN CHINA—
Continued

Date and number	Subject	Page
1931 June 8 (507)	<i>To the Minister in China</i> Advice that the recent action of the Chinese in withdrawing from foreigners the privilege to purchase land at Mokanshan constitutes no valid ground for protest; instructions, however, to report any impairment of existing American property rights as a result of the regulations.	1032
Nov. 5 (1248)	<i>From the Minister in China</i> Information from the Consul General at Shanghai that his colleagues are not, at the present time, disposed to effect any change in the procedure for the issuance of consular title deeds at Shanghai, as the matter is closely connected with the credit and finance situation.	1033

EFFORTS FOR THE CONSIDERATION OF AMERICAN CLAIMS OUTSTANDING
AGAINST CHINA

1931 Jan. 3 (3)	<i>To the Minister in China (tel.)</i> Instructions to inform the Chinese Government, if considered advisable, that the American Government desires to cooperate but cannot assent to the tentative plan for settlement of claims against China (as set forth in Minister's telegram No. 997, November 21, 1930) until informed of the treatment to be accorded to the total outstanding obligations owed to American interests. Inquiry as to possible attitude of Chinese Government toward a Sino-American claims commission.	1031
Jan. 9 (15)	<i>From the Minister in China (tel.)</i> Understanding that the Foreign Ministry desires as complete a list of contractual obligations as possible with a statement of sums due. Information that the attitude of other governments toward the Chinese tentative plan has not been determined.	1035
Jan. 12 (17)	<i>From the Minister in China (tel.)</i> Opinion that it would not be premature to request statements from American creditors, as, until these statements are prepared, no further discussion can be carried on with the Finance Minister.	1036
Jan. 16 (27)	<i>From the Minister in China (tel.)</i> Information that Dr. Wang Chung-hui, Chairman of the Commission for the Reorganization of China's Domestic and Foreign Loans, has been advised of the attitude expressed in Department's telegram No. 3, January 3.	1036
Mar. 7	<i>From the Minister in China (tel.)</i> Proposal of an agreement for a claims commission to the Foreign Minister, who felt that his Government would object but desired to consider the matter.	1037
Mar. 7	<i>Memorandum by the Minister in China</i> Discussion with Foreign Minister regarding the claims arising from damage to American property at Changsha in 1930; Chinese position that Government was not liable for damage done by rebels. (Footnote: Information that the Foreign Minister subsequently refused to reconsider the matter.)	1037

CHINA

EFFORTS FOR THE CONSIDERATION OF AMERICAN CLAIMS OUTSTANDING AGAINST
CHINA—Continued

Date and number	Subject	Page
1931 Apr. 13	<i>From the Minister in China (tel.)</i> Information from the Foreign Minister that Wang Chung-hui is not agreeable to a claims commission and that an official proposal would receive a negative response.	1038
May 7 (173)	<i>To the Minister in China (tel.)</i> Suggestion that the attention of the Chinese authorities be called to certain points relating to Department's draft protocol setting up a claims commission (transmitted in despatch No. 1467, February 3, 1930), emphasizing that the work of the proposed commission would be what the Chinese Government apparently desires, namely, the clarification of its position with respect to all foreign obligations.	1038
May 23 (294)	<i>From the Minister in China (tel.)</i> Conversation with the Foreign Minister, who stated his objections to the proposal of a claims commission but, upon the Minister's suggestions of ways to meet these objections, asked the Minister to draft an agreement along the lines suggested. Request for the Department's outline for presentation to the Foreign Minister.	1039
July 16	<i>Memorandum by the Chief of the Division of Far Eastern Affairs of a Conversation With the Chinese Chargé</i> Informal statement read to the Chargé in reply to his recent inquiry, made at the instance of the Nanking Government, with regard to the postponement of payments on inter-governmental debts, particularly certain Boxer indemnity payments.	1040
Undated	<i>To the Chinese Legation</i> Text of the informal statement read and handed to the Chinese Chargé on July 16 by the Chief of the Division of Far Eastern Affairs.	1041
July 30 (472)	<i>From the Minister in China (tel.)</i> Reuter's report from Shanghai: Information that the Minister of Finance published a warning that the bonds issued by Canton rebels and secured on customs revenue would not be recognized in any way by the Government as having claim on national funds.	1041
Dec. 10 (643)	<i>To the Minister in China</i> Draft of a proposed claims convention between the United States and China (text printed) to be used as a basis for further discussions, and offering proposals to overcome Chinese objections to the former draft.	1042

JAPAN

TRANS-PACIFIC FLIGHT FROM JAPAN TO THE UNITED STATES OF CLYDE E. PANGBORN AND HUGH HERNDON, JR.

Date and number	Subject	Page
1931 Apr. 2 (50)	<i>To the Ambassador in Japan (tel.)</i> Instructions to obtain the necessary permission for proposed flight over Japanese territory of Clyde E. Pangborn and Hugh Herndon.	1047
Apr. 13 (51)	<i>From the Ambassador in Japan (tel.)</i> Japanese Government's desire to know definitely the route of the Pangborn plane before issuing the permit.	1047
Apr. 21 (65)	<i>To the Ambassador in Japan (tel.)</i> Information that permission is requested for the flight over Japanese territory in case of an emergency.	1048
June 11 (80)	<i>From the Chargé in Japan (tel.)</i> Information that permission has been granted for emergency landing or flight over Japanese territory if necessary, subject to usual restrictions against flying over fortified zones or carrying firearms or cameras, subsequent flights to be made only at the direction of Japanese officials.	1018
Aug. 10 (117)	<i>From the Ambassador in Japan (tel.)</i> Report that Herndon and Pangborn landed in Japan without a permit after flying over several fortified zones and taking moving pictures, that they have had a bad week-end with the police but have not been actually arrested.	1048
Aug. 15 (122)	<i>From the Ambassador in Japan (tel.)</i> Information that Pangborn and Herndon have been fined 2,050 yen each or 205 days in prison.	1049
Aug. 15 (123)	<i>From the Ambassador in Japan (tel.)</i> Japanese confiscation of camera and films belonging to Pangborn and Herndon.	1049
Aug. 15 (135)	<i>To the Ambassador in Japan (tel.)</i> Inquiry as to whether the question of Herndon and Pangborn's flying their plane from Japan has been settled, and if not, instructions to urge upon authorities that they permit the flight in the interest of good will.	1049
Aug. 16 (124)	<i>From the Ambassador in Japan (tel.)</i> Information that the question of Herndon and Pangborn's permit to fly the Pacific has not been raised, but that the Embassy will try to have permission for the flight by the time necessary alterations to the plane are completed.	1049
Aug. 23 (126)	<i>From the Ambassador in Japan (tel.)</i> Report that the Embassy has applied for a permit for the Herndon-Pangborn flight to depart, that the Foreign Minister himself is now handling the matter, and that the customs require a guaranty in the nature of a bond for payment of duty before releasing the plane.	1050
Aug. 25	<i>Memorandum by Mr. Ransford S. Miller of the Division of Far Eastern Affairs of a Conversation With the Japanese Counselor of Embassy</i> Discussion of the Pangborn-Herndon case and of possible helpful action by the Japanese Embassy, especially in view of the pending decision concerning permission for the resumption of the flight.	1050

JAPAN

TRANS-PACIFIC FLIGHT FROM JAPAN TO THE UNITED STATES OF CLYDE E. PANGBORN AND HUGH HERNDON, JR.—Continued

Date and number	Subject	Page
1931 Aug. 27	<i>Memorandum by the Under Secretary of State</i> Visit from the Japanese Ambassador, who was advised by the Under Secretary that some decision should be reached as to Herndon and Pangborn flight; assurance from the Ambassador that he would urge his Government to allow the men to leave.	1051
Aug. 28	<i>Memorandum by the Assistant Chief of the Division of Far Eastern Affairs of a Conversation With the Japanese Counselor of Embassy</i> Information that the Japanese Ambassador, after his conversation with the Under Secretary on August 27, sent a further telegram to his Government requesting favorable action on the issuance of the permit to Pangborn and Herndon to fly from Japan.	1052
Aug. 30 (129)	<i>From the Ambassador in Japan (tel.)</i> Information from the Communications Minister that it was necessary to consult the Army and Navy in the Herndon-Pangborn matter and that there were a number of legal points involved but that he would make every effort for early action and believed it would not take long.	1052
Sept. 1 (140)	<i>From the American Ambassador in Japan to the Japanese Minister for Foreign Affairs</i> Reference to earlier communications and discussions concerning permission for Pangborn and Herndon to fly from Japan, and further assurance that such permission would produce a favorable impression in the United States.	1053
Sept. 11 (141)	<i>From the Ambassador in Japan (tel.)</i> Information from the Foreign Office that permission for the Pangborn-Herndon flight would be issued but that the Japanese Government would prefer postponement, possibly until spring, in view of opposition. Request that the Department consult the supporters of the flight and communicate instructions, as the flyers object to postponement.	1053
Sept. 14 (162)	<i>To the Ambassador in Japan (tel.)</i> Advice that Department has consulted flight supporters, as well as Herndon's mother, and considers early issuance of the permit desirable. Instructions to present the further note asked by the Foreign Office requesting early issue of the permit.	1054
Sept. 14 (146)	<i>From the American Ambassador in Japan to the Japanese Minister for Foreign Affairs</i> Expression of hope for early issuance of the permit.	1054
Sept. 15 (145)	<i>From the Ambassador in Japan (tel.)</i> Conversation with Herndon and Pangborn in which Ambassador requested them to make every effort to allay any resentment against Japan incidental to their visit. Information that the Foreign Office reply to the letter of September 14 asks delay until spring, but that the fliers request a permit for immediate flight.	1055
Sept. 19 (154)	<i>From the Charge in Japan (tel.)</i> Information that the permit has been granted.	1055
[Oct. 6?]	<i>From the Japanese Minister for Foreign Affairs (tel.)</i> Expression of warm congratulations on the success of the Pangborn-Herndon flight.	1056

JAPAN

ADMISSION INTO THE UNITED STATES OF JAPANESE TREATY (TRADE) ALIENS

Date and number	Subject	Page
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ARRANGEMENT BETWEEN THE UNITED STATES AND JAPAN REGARDING RECIPROCAL RECOGNITION OF LOAD-LINE CERTIFICATES EFFECTED BY EXCHANGE OF NOTES SIGNED FEBRUARY 13, 1931, MARCH 19 AND 30, 1931, AUGUST 25, 1931, AND SEPTEMBER 7, 1931

1931 Feb. 13 46	<i>From the American Chargé in Japan to the Japanese Minister for Foreign Affairs</i> Inquiry whether the Japanese Government would be willing to continue the arrangement of 1922 concerning ship load-line certificates pending the coming into force of the international load-line convention of July 5, 1930.	1059
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Mar. 30 (59)	<i>From the American Ambassador in Japan to the Japanese Minister for Foreign Affairs</i> Advice that the United States is recognizing the load-line marks approved by the Japanese Government.	1061
Aug. 25 (136)	<i>From the American Ambassador in Japan to the Japanese Minister for Foreign Affairs</i> Notification that the U. S. Government has confirmed the assurances given in note No. 59 of March 30 and has accepted the proposal of the Japanese Government to continue the present arrangement pertaining to load lines; information that the U. S. Government also has authorized, in particular cases, the marking of load-lines and the issuance of certificates therefor, on American vessels, by certain shipping bureaus, which it is desired be recognized by Japanese authorities.	1061
Sept. 7 (97/C1)	<i>From the Japanese Minister for Foreign Affairs to the American Ambassador in Japan</i> Non-objection of the Japanese Government to the recognition of load-line certificates issued to American ships by shipping bureaus in so far only as they are issued under authority granted by the U. S. Government.	1062

THE FAR EASTERN CRISIS

OCCUPATION OF MANCHURIA BY JAPAN, BEGINNING OF JAPANESE MILITARY AGGRESSION, AND EFFORTS OF THE UNITED STATES AND OTHER POWERS TO PRESERVE PEACE¹

793.94/1792

*The Consul at Mukden (Vincent) to the Minister in China (Johnson)*²

No. 440

MUKDEN, August 20, 1931.

SIR: I have the honour to submit for the information of the Legation a brief account of the execution of the Japanese army captain, Nakamura, and his party between Taonan and Solun, by Chinese soldiers.³ The details of the incident were given me by Mr. Hayashi, Japanese Consul General at Mukden.

Early in June Captain Nakamura obtained from the Mukden Special Delegate of the Ministry for Foreign Affairs a "huchao" for travel in Manchuria. This "huchao" excluded the territory between Taonan and Solun (Hsingan Colonization Area) from travel by the Captain. At Harbin, however, a second "huchao" was secured which, according to the Japanese Consul General, gave the desired permission to travel in the Taonan-Solun area.

Captain Nakamura conducted "investigations" along the Chinese Eastern Railway at Manchuli, Tsitsihar, Angangchi, and Hailar. He secured the services of a Mongolian and a Russian interpreter, and also that of a Japanese named Isugi, a retired Japanese army sergeant who kept an inn at Angangchi. This party of four left Pokotu on the Chinese Eastern Railway about the middle of June, their immediate destination being Taonan. On June 27th the party were arrested by Chinese troops at a place called Suokungfu, a small place east of Solun between that town and Chalaite Wangfu. Although the place and manner of execution have not yet been fully established, it is believed that the party were taken to Solun where they were shot on July 1st and subsequently burned. The execution was carried out

¹ For additional documents on this subject for the year 1931, see *Foreign Relations, Japan, 1931-1941*, vol. I, pp. 1-75. Papers printed in that volume are not reprinted here.

² Copy transmitted to the Department by the Consul in his despatch No. 29, August 20; received September 14.

³ For summary of the Nakamura incident, see League of Nations, *Appeal by the Chinese Government, Report of the Commission of Enquiry* (C. 663. M. 320. 1932. VII, Geneva, October 1st, 1932), pp. 63 ff.

by order and in the presence of Kuan Yu-heng, commanding the 3rd Regiment of the Hsingan Reclamation Army during the absence in Mukden of Colonel Chao Kuan-wu, the regular commander.

Japanese suspicions were aroused when the party failed to appear at Taonan at the scheduled time. Japanese newspapers in Manchuria were the first to secure rumours of the fate of the party. After the appearance of a news report about July 15th, the Japanese took steps to suppress all accounts of the incident pending a thorough investigation. For this reason it was not until August 17th that the first newspaper account of the execution appeared in the Manchurian papers.

Consul General Hayashi has within the past few days taken up the case with General Tsang Shih-yi, Chairman of the Liaoning Provincial Government. He is demanding an indemnity, apology, punishment of the responsible Chinese army officers, and assurance of future protection. General Tsang Shih-yi has expressed a readiness to comply with these demands. Mr. Hayashi has confidence in his sincerity but very little in his ability to enforce execution of his orders.

Mr. Hayashi assured me that the negotiations were entirely in his hands in spite of rumours to the effect that the Japanese military authorities were to interfere in securing a settlement. He deplored the attitude of military officials, mentioning a call which Major Mori, a Japanese army officer, had made upon General Tsang Shih-yi on July 17th. Major Mori is of the Japanese General Staff Office and was sent to Mukden by the Japanese Army apparently to investigate the case. He informed General Tsang Shih-yi of how seriously the Japanese Army viewed the incident and gave out the following report:

"In dealing with so serious a case, nice diplomatic courtesies could not satisfy the Japanese Army, and I am here to see for myself what amount of sincerity is shown by the Chinese side handling the case. It goes without saying that, once we are satisfied of lack of sincerity on the Chinese side, the Japanese side might enforce its demand".

This incident is believed to be the first in the history of Sino Japanese relations where a Japanese army officer has been arrested and executed by the order of Chinese military authorities. The Japanese press in Manchuria is making much of the incident and Mr. Hayashi tells me that the outspoken indignation of the military authorities in Japan is exciting the Japanese populace. He did not indicate what action might be taken in the event the Chinese did not meet the demands he has presented but I was led to believe that he is seriously concerned over the effect which protracted negotiations might have on Japanese feelings.

In discussing the general Sino-Japanese situation in Manchuria, Mr. Hayashi did not try to minimize its seriousness. He stated that while that portion of Japanese public opinion which was demanding a "strong policy" in Manchuria did not represent a majority of the people, nevertheless irritation with Chinese tactics and Foreign Office policy was growing, particularly among the members of the military party and the Japanese residents in Manchuria. The Japanese authorities in Manchuria were taking every precaution to avoid a conflict in Manchuria but the possibility of some unexpected Sino-Japanese conflict developing into an incident of major importance forced them to view the situation with grave concern.

Very respectfully yours,

JOHN CARTER VINCENT

703.94/2346

*Memorandum by the Minister in China (Johnson) of a Conversation With Dr. John C. Ferguson, Adviser of the Executive Yuan of the Chinese National Government*⁴

PEIPING, September 11, 1931.

Dr. Ferguson called today and after some conversation about various matters and before leaving he said that he felt very much concerned about the situation that was growing up between Japan and China. He suggested that I might not wish to go south to resume negotiations in regard to extraterritoriality⁵ in view of the fact that Japan was bound to take drastic action vis-à-vis China very shortly. I asked him what he meant by drastic action. He said his information was that Japan would occupy Manchuria within the next three months. He said that a high Japanese official had made a tour in China for the purpose of investigating the situation here and had reported to his Government that the opportunity for taking this action had now arrived and he had recommended it.

I told Dr. Ferguson that I thought such action on the part of the Japanese highly improbable; it seemed fantastic that at this time the Japanese would act in this way, particularly as they were able to exploit Manchuria while all of the expenses of administration and government would remain on Chinese shoulders.

Dr. Ferguson stated that nevertheless he believed his information was correct.

NELSON TRUSLER JOHNSON

⁴ Copy transmitted to the Department by the Minister in his despatch No. 1208, October 1; received October 26.

⁵ See pp. 716 ff.

793.94/1790 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 12, 1931—5 p. m.
[Received September 12—11:40 a. m.]

578. Referring to Mukden's despatch 440, August 20 re Nakamura, Agent and Consul General [*of Japanese General Staff?*], the following is essential portion of a further report dated September 10th:

"There is good reason to believe that internal Japanese politics are more responsible for the present threatening aspect of Sino-Japanese relations than anything that the Chinese have done or left undone with respect to the case. It is my opinion that relations between Japanese Army and the Japanese Foreign Office (representing non-Army elements in the Government) are as much strained just now as relations between China and Japan, and that the Army authorities are quite as willing to have the negotiations fail as the Foreign Office is anxious to have them succeed. The report of the first Chinese group of investigators having been wholly unsatisfactory, a second and more capable group was sent out on September 6th. That group simply reported that their investigations failed to disclose any evidence to [*in*] support of the Japanese statement. It was shown, however, that their investigations were anything but thorough. Despite insistence from Japanese Army quarters for a prompt settlement, Consul General Hayashi informs me that no definite time limit has been set with respect to a reply from the Chinese. The situation is not believed to be as critical as intimated in the press, although further evidence of procrastination or insincerity on the part of the Chinese will make it extremely difficult to avoid a Japanese military display in Manchuria. It has been impossible to obtain information concerning the sanction or sanctions which might be applied in the event of a breakdown of negotiations."

The Nakamura case has for several weeks been causing much excitement and while the Legation does not share the alarmist views of many of the newspapers it must be remembered the Sino-Japanese relations since the Korean riots⁶ have been anything but friendly. Any incident if not carefully handled by both parties may therefore produce a serious crisis. The Legation believes that the Manchurian authorities and probably also Japanese would prefer to settle the case locally through the Japanese Consul General in Mukden rather than through protracted negotiations between Nanking and Tokyo. Marshal Chang Hsueh-liang⁷ is said to be personally sincerely desirous of effecting such local settlement and to that end has designated his

⁶ For summary of the Wanpaoshan incident in Manchuria and the anti-Chinese riots in Korea, see League of Nations, *Appeal by the Chinese Government, Report of the Commission of Enquiry*, pp. 61 ff.

⁷ Vice commander in chief of the Chinese National Army, Navy, and Air Forces; commander in chief of the Northeastern Frontier Army; and chairman of the Political Council of the four Northeastern Provinces.

adviser Tang Erh-ho to represent him in the negotiations. But if current reports be true that the Japanese military are impatient and are urging the occupation of large portion of Manchuria pending settlement of the case it may prove extremely difficult to restrain existing anti-Japanese feeling.

Tokyo informed.

JOHNSON

793.94/2086

The Consul General at Nanking (Peck) to the Minister in China (Johnson)^a

No. L-93

NANKING, September 12, 1931.

SIR: I have the honor to refer to my telegram to the Legation of July 11, 1931, to the Legation's instruction of July 28, 1931, and to other correspondence regarding the suspicion entertained by the Chinese Government that the Japanese Government is deliberately preparing the ground for military intervention in Manchuria.

On September 10, 1931, I received a call from Dr. M. T. Z. Tyau, a Counselor of the Ministry of Foreign Affairs and Chief of the Department of Intelligence and Publicity, in relation to the same subject. Dr. Tyau handed me an *Aide-Mémoire*, dated September 10, 1931, setting forth various indications of Japanese "provocations in Manchuria in order to provide excuses for the use of force, as well as an intensive propaganda campaign designed to blind the eyes of the world to the facts of the situation". He told me that similar statements had been supplied to the British Legation in China and to the League of Nations, through the Chinese representatives. The *Aide-Mémoire* handed to me for the American Legation was typed on plain paper, bore no seal or other sign of its origin and was enclosed in a "Waichiaopu" envelope which bore no address.

I have had a copy of this document made for the files of this office and am enclosing the original and four copies, together with the envelope, herewith. The matter has not been reported to the Department.

Respectfully yours,

WILLYS R. PECK

[Enclosure]

The Chinese Ministry for Foreign Affairs to the American Consulate General at Nanking

AIDE-MÉMOIRE

The military clique in Japan has of late been clamoring for a drastic policy towards China, particularly in regard to Manchuria

^aCopy transmitted to the Department by the Consul General without covering despatch; received October 12.

and Mongolia. At the Military Commanders' Conference the Minister of War publicly drew attention to the possibility of what he termed grave developments in Manchuria and Mongolia, and urged the necessity of preparedness. Such preparedness, as interpreted in the light of recent events, seems to consist of repeated provocations in Manchuria in order to provide excuses for the use of force, as well as an intensive propaganda campaign designed to blind the eyes of the world to the facts of the situation. The following facts are illustrative of the present developments in Japan's policy towards China.

1) At the Military Commanders' Conference on June 27, 1931, it was decided to increase the Japanese forces in North Korea by two divisions and to place the Japanese garrison in Manchuria on a permanent basis.

2) Balked at the failure of Japanese colonization in Manchuria, Japan has during recent years attempted to make use of Koreans in colonizing the territory. The number of Korean immigrants in Manchuria has almost reached a million, and under Japanese influence as well as protection the Korean settlers have presented a grave problem to the Chinese authorities in Manchuria. The Wanpaoshan Affair affords a glaring example.

In March this year a large number of Korean farmers, acting under Japanese encouragement as well as an illegal contract, forcibly seized about 5,000 mow of Chinese land in Wanpaoshan, north of Changchun, and constructed an irrigation canal, resulting in serious damage to the Chinese farmers.

To make the matter worse, the Japanese Consul at Changchun despatched a number of Japanese gendarmes to Wanpaoshan to protect such illegal activities. Repeated protests from the local Chinese authorities were flagrantly ignored. At the same time the Japanese correspondents, playing on the mind of the ignorant Koreans, indulged in a press campaign against China, alleging the grossest maltreatment of Korean settlers in Manchuria. As a result of such vicious misrepresentations, the Koreans were incited to an unparalleled attack upon Chinese lives and property in Korea.

3) During July 3 to 12, 1931, approximately 150 Chinese residents were murdered in Korea, 340 were injured and another 70 were found missing. The losses directly and indirectly inflicted upon Chinese property is estimated at no less than 3,000,000 yen. Although amply warned against the possibility of such riots, the Japanese authorities did not act in sufficient time to prevent them, nor were effective measures taken to suppress the riots after they had occurred.

4) During the weeks following August 4, 1931, the Japanese troops staged manoeuvres in Hueining, Korea. On August 11, a party of 34 Japanese soldiers crossed over to Chinese territory and started survey-

ing for the construction of bridges. On August 15 the Japanese troops mined the center of the Tumen River, while two steam launches manned by Japanese soldiers were seen patrolling the unmined portions of the river. On the same day, a party of about 30 Japanese reservists again trespassed on Chinese territory and there practised with their machine guns.

NANKING, September 10, 1931.

793.94/1791 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 14, 1931—noon.

[Received September 14—4:05 a. m.]

579. Legation's 578, September 12, 8 [5] p. m. Following from American Consul General at Mukden:

"September 13, 11 a. m.

No important developments in the Nakamura affair since my political report of 10th. Japanese Consul General, without making a specific threat, seems to have convinced Mukden authorities of Japanese determination to secure satisfaction and of the critical consequence of unsatisfactory reply. After a conversation on the 10th between the Chinese and the Japanese, the chief of the Chinese military police left immediately to join the group of investigators who were sent out on the 6th."

JOHNSON

793.94/2087

*The Consul General at Nanking (Peck) to the Minister in China (Johnson)*¹⁰

No. L-96

NANKING, September 15, 1931.

SIR: I have the honor to refer to my despatch No. 93 of September 12, 1931 with which I transmitted a copy of a Memorandum dated September 10, 1931 prepared in the Chinese Ministry of Foreign Affairs and handed through me to the American Legation, in which the view was expressed that Japan is endeavoring to prepare the ground for forcible action by that country in Manchuria.

In this connection I have the honor to report to the Legation the gist of an interesting conversation held by Consul P. W. Meyer of this Consulate General on the evening of September 11, 1931, with a very intelligent and reliable Chinese newspaper correspondent. The informant is in close touch with Chinese officials in Nanking and this office has hitherto found his statements of fact dependable.

¹⁰ Copy transmitted to the Department by the Consul General in his despatch No. D-107, September 17; received October 12.

The informant told Mr. Meyer confidentially that on the night of September 10, 1931, President Chiang Kai-shek received an urgent telegram from Marshal Chang Hsueh-liang stating that it had always been his policy to support the National Government; that he realized that should the Nanking Government fall there would be no central Government in China for some time to come; but that, much to his regret, he was obliged to report that a state of affairs then existed in the North which would make it impossible for him again to render assistance to the National Government, even though his assistance might be needed, and that the National Government should no longer rely upon him for such assistance. The informant said that the expression "state of affairs" referred indubitably to the situation created by the Japanese.

The informant stated, also, that the reason why General Chang Tso-hsiang had presented his resignation from the post of Chairman of the Provincial Government of Kirin was not the death of his father, as stated, but because General Chang felt himself unable to cope with Japanese pressure in Manchuria.

In a conversation held by me with Mr. T. V. Soong, the Minister of Finance, on September 13, 1931, I asked him whether General Chang Tso-hsiang had resigned for the reason given above. Mr. Soong denied it, and said he had resigned merely because of the death of his father, and the Government had already persuaded him to withdraw his resignation and remain at his post. It is possible that General Chang Tso-hsiang acted from mixed motives.

It was asserted by the informant that the Japanese were assisting the Cantonese group with money and munitions—the result, in part, of Eugene Chen's visit to Japan during the past summer. In this connection I have the honor to refer to my despatch No. I-65, of August 1, 1931, wherein I reported a statement made to me by an officer of the Bureau of Aviation of the National Government, to the effect that the Chinese authorities had precise evidence that General Shih Yu-san received \$500,000 Chinese currency from the Japanese to induce him to revolt and that a similar sum was received from the same source by General Han Fu-chu.

There is enclosed with this despatch a copy of a mail press despatch published in Shanghai September 14, 1931,²¹ in which the United Press Staff correspondent reports that the report is prevalent in Chinese papers in Peiping that the Japanese military party is assisting the faction at Canton.

In view of the wide-spread belief that the *Far Eastern Review*, published in Shanghai, receives some support and inspiration from Japanese sources, it is interesting to note that in the August number of that

²¹ Not reprinted.

journal there appear three articles written by Mr. George Bronson Rea, an American citizen, entitled "The Communist Menace in Manchuria", "Realities", and "Behind Wanpaoshan", which have bearing on the question of whether Japan is contemplating forcible action in Manchuria. The general idea behind these articles is that China is politically bankrupt, that the country cannot be administratively united, and that the Powers should abandon the attempt to maintain the political and administrative integrity of China and should deal with different portions of the country as separate entities. The paragraph which begins at the bottom of page 466 of this number of the *Far Eastern Review* is especially emphatic in its forecast of the probability that Japan will take forcible action to protect Japanese interests in Manchuria if the latter are at any time seriously threatened.

Respectfully yours,

WILLIS R. PECK

793.94/2053

The Minister in China (Johnson) to the Secretary of State

No. 1181

PEIPING, September 16, 1931.

[Received October 10.]

SIR: With reference to the Legation's telegram No. 578, of September 12, 5 p. m., concerning the Nakamura incident, I have the honor to transmit herewith an interesting editorial on this subject, which appeared in the *Peking & Tientsin Times*, in three sections, on September 9, 10, and 11, 1931.¹²

The first section of the editorial asserts that Captain Shintaro Nakamura, of the Japanese General Staff, and said to be a spy, was executed by Chinese soldiers of the Khingan Reclamation Army, in the bandit-infested Solun region of Manchuria, where (according to the second section) he was traveling presumably to investigate the interesting reclamation, colonization and agricultural enterprise which is being carried out in this area, but very possibly to collect political and economic information that would be of interest to the Japanese General Staff.

The Nakamura incident has greatly incensed the Japanese and has led the military clique to demand strong action, if not the occupation of portions of Manchuria itself. Following as it does upon the anti-Chinese riots in Korea, it has tended to counteract the anti-Japanese propaganda in the Chinese press and may possibly result in a toning down of the Chinese demands upon the Japanese Government for satisfaction and an indemnity for the victims of the riots.

¹² Not reprinted.

It is well known that the Japanese grievances against China are many and, as pointed out in the enclosed editorial, the Nakamura incident is but an expression of the growing animosity between the Chinese and Japanese in Manchuria. So long as the settled policy of the Chinese authorities in Manchuria is one of obstruction and hostility to the Japanese, such incidents are bound to occur and any one of them might precipitate a serious crisis.

Further details of this case are to be found in the press clippings being transmitted to the Department by the same pouch as this despatch.

A second and more thorough investigation is now being conducted by the Chinese authorities, and the Legation will not fail to keep the Department fully informed of subsequent developments.

Respectfully yours,

NELSON TRUSLER JOHNSON

793.94/2346

*Memorandum by the Minister in China (Johnson) of a Conversation With Mr. W. H. Donald, Adviser to Marshal Chang Hsueh-liang of Manchuria*¹³

PEIPING, September 19, 1931—2:30 a. m.

Mr. Donald just called me by telephone and said that Marshal Chang Hsueh-liang had received a telegram from Mukden stating that a little before 10 p. m. the evening of the 18th a squad of Japanese soldiers had left the Japanese area and proceeding southeast of Mukden had commenced firing with rifles at the east camp and at the arsenal. He said they were also using a cannon and were apparently firing shells on the city at the rate of one every ten minutes; that one had landed somewhere near the Japanese monument. He said that at that time it was reported that some seventy Chinese soldiers had been killed in the east camp but they had no information as to what damage had been done in the city. He informed me that Marshal Chang Hsueh-liang had issued orders restricting troops to barracks and depoting all arms and had forbade any retaliatory measures.

Mr. Donald stated that he had received a personal message to the effect that firing was continuing at one o'clock this morning and that Japanese soldiers had been seen marching in the direction of the west gate of the city, the inference being that the Japanese were making a move to occupy the city of Mukden. Mr. Donald stated that their information was that apparently the Japanese military had got completely out of hand at Mukden, that the Japanese civilian authorities, namely the consul general, were powerless to do anything.

NELSON TRUSLER JOHNSON

¹³ Copy transmitted to the Department by the Minister in his despatch No. 1203, October 1; received October 26.

793.94/1795 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

Tokyo, September 19, 1931—noon.

[Received September 19—2:31 a. m.]

150. Peiping's 599, September 19th, 2:30 a. m.¹⁴ Japanese newspapers today published extras indicating a state of war between Japan and China. The Foreign Office stated to a member of the staff that the facts seem to be a minor clash between Japanese South Manchurian Railway guards and Chinese soldiers growing out of damage to a section of railway track just north of Mukden, which the Japanese Army has since occupied. The Japanese assure us they are determined upon a peaceful settlement of whatever controversy arises.

Under the circumstances I think it would be unwise to cancel voyage home and stay here as such action might be misconstrued so I shall sail on *Empress of Japan* this afternoon.

Repeated to Peiping.

FORBES

793.94/1797 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 19, 1931—noon.

[Received September 19—5:58 a. m.]

600. My September 19, 2:30 p. m. [*a. m.*]¹⁴ Same source informs me that two train loads of Japanese soldiers arrived Yingkou this morning proceeding thence to Kowpangtze where they disarmed railway police and all others, occupying town. Japanese warship is reported to have arrived at Yingkou this morning. Communication from Mukden ceased at 3 a. m. at which time Japanese soldiers reported entered city.

Mayer, Military Attaché's office,¹⁵ is proceeding Mukden to ascertain facts.

Please inform War and Navy. Repeated to commander in chief and Tokyo.

JOHNSON

¹⁴ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 1.

¹⁵ Captain William Mayer, language officer of the Legation in China.

793.94/1804 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 19, 1931—2 p. m.

[Received September 19—7 a. m.]

602. My 599, September 19¹⁷ and 600, September 19, 11 a. m. [noon].

Wellington Koo¹⁸ has just come to me from Marshal Chang Hsueh-liang to confirm reports contained in my two telegrams above referred to and to say that Japanese military forces were in occupation of the city of Mukden and that they had placed troops at all administrative offices including the Marshal's headquarters. Occupation of Kowpangtze cuts Manchuria off completely from China. Koo stated that Marshal Chang had reported matter to Nanking. In the course of conversation Koo brought up League possible action on the part of China or powers either under the Covenant of the League,¹⁹ the Kellogg pact²⁰ or article VII of the Nine-Power Treaty regarding principles and policies.²¹ With reference to the treaty regarding principles and policies he suggested possibility of the United States starting a discussion among interested powers.

I told Koo that I had informed Department of incidents thus far reported to me, that I was not in a position to know what attitude my Government would take as to the basis for the dispute and that I thought it would take a little time to learn what it was about and what should be done. Koo departed asking me to inform him of any views that Washington might have in regard to this matter.

In a separate telegram I am communicating substance of conversation member of staff had with Counselor of Japanese Legation at noon today regarding Japanese version of last night's events at Mukden.

JOHNSON

793.94/1805 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 19, 1931—3 p. m.

[Received September 19—7 a. m.]

603. Legation's 602, September 19, 2 p. m. Member of my staff called on Counselor of Japanese Legation in the absence of the Japanese Minister who is in Shanghai. He was informed that the Muk-

¹⁷ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 1.¹⁸ V. K. Wellington Koo, formerly Minister for Foreign Affairs and Premier of Peking Government.¹⁹ *Treaties, Conventions, etc., Between the United States and Other Powers, 1910-1923* (Washington, Government Printing Office, 1923), vol. III, p. 3336.²⁰ *Foreign Relations, 1928*, vol. I, p. 153.²¹ *Ibid.*, 1922, vol. I, p. 276.

den incident appears to have been caused by an attempt on the part of some three or four hundred Chinese soldiers to blow up the line of the South Manchuria Railway immediately to the north of Mukden. A Japanese force was sent to investigate and prevent further damage to the line but when they arrived they were opposed by the Chinese soldiers and a brief engagement ensued. The Japanese thereupon decided as a precautionary measure to occupy certain parts of the city. In reply to a question he stated there may be no connection between the events of last night and the representations the Japanese Government had made regarding other incidents and that, on the contrary, they had been encouraged by the conciliatory attitude the Chinese had recently shown in connection with the Nakamura [case?]. When asked whether it was true that Japanese troops had occupied Kowpangtze he replied he did not know but doubted it very much.

JOHNSON

 793.94/1798 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 19, 1931—5 p. m.

[Received September 19—7 a. m.]

605. Military Attaché's office informs me as follows :

"Japanese Military Attaché and Naval Attaché state that three [or] four days ago several Japanese pickets were ambushed and killed by Chinese soldiers on South Manchuria Railway, that South Manchuria Railway was cut north of Mukden and that due to these events and Nakamura case they have seized Mukden, Changchun, Yingkou and Kowpangtze and railway connecting with last two places. That arsenals in Mukden have been seized and that fighting has occurred there and at Changchun. Chinese troops in neighborhood of Mukden have been disarmed. Further state that occupation of territory laterally from South Manchuria Railway will only be in depth to guard their flanks."

JOHNSON

 793.94/1796 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, September 19, 1931—5 p. m.

[Received September 19—7:33 a. m.]

153. Embassy's 150, September 19, noon. Vice Minister for Foreign Affairs informs me that according to information at hand the South Manchuria Railway guards at Mukden discovered last night about 10 o'clock that part of the track north of Mukden was being torn up. They called assistance and proceeded to break up the interference when

they were confronted by several hundred Chinese soldiers in uniform coming out of the north camp. The Japanese military authorities thereupon sent out a force sufficient to drive off the Chinese and by 10 o'clock this morning had occupied the whole of Mukden and its environment. I am now informed that a special Cabinet meeting was held today and orders have been dispatched to the Japanese commander in chief of the army in Manchuria to stop all further aggressive military operations. The Foreign Office has promised to keep me advised.

Copy to Peiping.

NEVILLE

793.94/1799 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 19, 1931—8 p. m.
[Received September 19—10:10 a. m.]

606. Following telegram has been received from Langdon²² at Dairen.

"September 19, 2 p. m. Consul at Mukden telephones for repetition to you that Japanese took over whole of Mukden at 1 a. m., this morning; they have also occupied Changchun, Antung and Newchwang and are running public services at all these places. Foreigners are all safe."

JOHNSON

793.94/1800 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 19, 1931—9 p. m.
[Received September 19—10:25 a. m.]

607. Following undated from American Consul General at Mukden, repeated by naval radio from Shanghai:

"September 19. 4 p. m. Please forward to Legation at Peiping. Sano, Japanese Consulate, reports South Manchuria Railway cut about 20 miles north of Mukden by 400 Chinese troops from Peitaiying garrison, 150 Japanese troops engaging Chinese. Desultory artillery fire can be heard from Mukden. Obviously not a severe engagement. Chinese Foreign Office telephoned 1:45. Chinese had requested Japanese cease firing but without avail. Japanese have blocked railway settlement to all including foreigners. No danger to foreigners anticipated although serious political complications will very likely arise. Lynch²³."

JOHNSON

²² William R. Langdon, Consul at Dairen.

²³ Andrew G. Lynch, Vice Consul at Mukden.

793.94/2024

*Memorandum by the Chief of the Division of Current Information
(McDermott) of the Press Conference on September 19, 1931*

[Extract]

China. Secretary Stimson said that the news received by the Department concerning the occurrences at Mukden, Manchuria, substantially confirmed the press despatches. The contents of the telegrams to the Department have been conveyed to the press, *not for attribution to the Department of State*, because the news contained therein was from Chinese sources. Asked if the telegrams to the Department substantiated this morning's press reports concerning the capture of Mukden by the Japanese, the Secretary replied that Mukden appeared to have been taken by Japanese soldiers against the opposition of their Government representatives. The Secretary said, furthermore, that from the press despatches and the telegraphic despatches received by the Department it appears to be perfectly clear that the incident was caused by the action of the soldiers against the efforts of the representatives of their Government at Mukden. The Secretary said that he was merely giving the correspondents the reports he had received to date and which, so far, had not been contradicted. A correspondent here observed that when Polish soldiers captured a Lithuanian town ²⁴ they gave out the same story. In reply, Mr. Stimson said he did not remember the details of the Lithuanian incident.

Asked then if the incident in Mukden came under the provisions of the Four-Power Pacific Treaty,²⁵ the Secretary said he thought not and that, judging from the despatches received, it was not a clash of Governments, but a clash of subordinates of Governments, and that it would not, therefore, come under either the Kellogg Pact or any of the other Treaties. A correspondent then observed that clashes between governments usually grow out of smaller things. In reply, Mr. Stimson said it might lead to something that would call for the invocation of the Kellogg Pact or other Treaties, but it certainly is not yet an act of war by one Government against another, according to the press despatches. The Secretary here said that his remarks were *not for attribution to himself or to the Department of State* and that they were *for guidance only*. A correspondent then said he thought he had a right to know whether the United States viewed this incident as coming under the provisions of any of the Treaties above mentioned. He was informed, in reply, that the Secretary had given him all he was entitled to know and that the information given above was merely for his

²⁴ Presumably Vilno, seized October 9, 1920.

²⁵ Signed at Washington December 13, 1921, *Foreign Relations*, 1922, vol. 1, p. 33.

guidance. The correspondent then said that the public was not interested in his (the correspondent's) view and that it is interested in the views of the Department of State. The correspondent then asked if he could obtain some statement which he could publish on the authority of the Department of State. Mr. Stimson then said that our information was very imperfect and that the correspondents were trying to make him jump before he was ready. The correspondent then said that he was not attempting to do such a thing or to do anything that would be unfair to the Secretary of State. In reply, Mr. Stimson said he did not mean to use the word "unfair", but the fact of the matter is we are just beginning to receive despatches from the disturbed area. Anyone who has the facts probably would reach the same conclusion which the Department has, which is that so far the matter does not involve the two Governments and is not, therefore, under the provisions of the Kellogg Pact. The correspondent then said that the above statement was proper news and interesting to the reading public because of the great interest in the Kellogg Pact. Mr. Stimson then said that the correspondents might use the following *for attribution*: The Department is following the matter carefully, but on the news thus far received there seems to be no ground for indicating any violation of the Kellogg Pact.

Asked if the United States has any extensive commercial interests in the region around Mukden, the Secretary said he understood our trade with that district was small.

M. J. McDERMOTT

793.94/1806 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 20, 1931—2 a. m.

[Received September 19—10 p. m.]

608. Following from Mukden via Shanghai:

"September 19, 8 a. m. All Americans safe although statement in my earlier telegram regarding safety of foreigners was somewhat premature. Japanese machine guns opened [fire on?] motor car carrying Chinese in International Settlement killing chauffeur, wounding occupant, bullets passing over Mukden Club window and automobiles of Americans standing in compound. Japanese troops now control International Settlement and surround native city. At 5 p. m. yesterday Japanese Consulate General assured me that chance of immediate trouble had practically passed due to conciliatory attitude of Chinese. Believe whole episode complete surprise to Japanese Consulate General. International Settlement now quiet. Lynch."

JOHNSON

793.94/1807: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 20, 1931—11 p. m. [*a. m.?*]
 [Received September 20—3 a. m.]

609. Commandant of American Guard who is Senior Commandant informs me that Commandant of Japanese Legation Guard came to him this morning and after informing him of happenings in Manchuria along the lines reported in Tokyo's 153, September 19, 5 p. m., referred to possibility of attacks upon Japanese nationals resident in Peiping. He asked concerning attitude of the Senior Commandant in such eventuality with special reference to general plan of defense of foreigners and Legation Quarter in case of attack. Commandant of American Guard replied with my approval that present situation involving as it does only Japanese would not warrant invoking of general plan. Senior Commandant suggested that if Japanese citizens are threatened outside Legation Quarter obvious step would be for Japanese authorities to bring them into their own Legation.

Repeated to commander in chief.

JOHNSON

793.94/1820: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 20, 1931—4 p. m.
 [Received September 21—2:15 p. m.]

116. Late Saturday afternoon,²⁶ following a private session of the Council in which the affair was presumably discussed, the Japanese delegate, at the request of the President of the Council, made a brief statement concerning the Mukden incident.

This statement was to the effect that the information received by him was meager and that he had requested further details from his Government and would keep the Council informed of developments. He added that the Japanese Government would doubtless take measures to attempt to insure that this local incident should not lead to more serious complications, and to effect an appeasement of the situation.

Dr. Sze, the Chinese delegate, took the occasion to speak immediately afterwards expressing deep concern in regard to this "highly regrettable incident". He added that the information thus far at hand seemed to indicate that the Chinese were not responsible for

²⁶ September 19.

the incident. He stated that he would not fail to communicate to the Council any authentic information which he obtained.

The President of the Council, Mr. Lerroux of Spain, noted the statements and said that the Council had heard with satisfaction that the Japanese Government would take the necessary measures to bring about an appeasement of the situation and expressed the hope for a prompt settlement of the question.

No other member of the Council spoke on the subject. It was evidently the intention of the President to attempt to allay apprehension by the public declarations referred to above.

[Paraphrase.] This morning Dr. Sze called on me to say that he was aware of my following in a strategical way the Council's proceedings, so he thought the Chinese position in this matter might be of interest to me.

I was told by Sze that the chief delegates of certain powers had met informally and privately prior to the Council's meeting on Saturday and had more or less decided against having the question brought up before the Council. This attitude Sze attributed to Japanese influence. Certain delegates after the meeting approached him as to whether he intended to present the question, and for reasons to be explained later in this telegram, he would not say what he planned to do. He gave as his excuse that he was receiving messages from Nanking which might control his action. In consequence of his reply, another meeting was held by the same delegates, and following this (in this case apparently as a result), the question was presented to the Council by the Japanese delegate. This Japanese action, incidentally, is interpreted here as a Japanese desire (as they do not know Sze's plans), by taking the initiative, to prevent bringing up the aspect of good faith. However, it resulted in allowing the Chinese delegate to make a move without initiating it in a way which might be interpreted to be tantamount to an appeal to the Council.

I learned from Sze that he was not able and probably would not be able during the present Council session to communicate to it any more authentic information regarding the Mukden situation, since he had been informed from Nanking of the cutting by the Japanese of communications from Mukden to Peiping and Nanking, thereby preventing his getting any information from Mukden. Sze attributed this Japanese cutting of communications as an act to prevent the true facts becoming known before the Council's meetings have concluded. He also revealed to me that instructions from his Government on the position he should take at Geneva had not yet been received; that his action would be governed by these instructions,

but that he would put off this action as long as he could, even if directed to present the question to the League.

After the above statements, it became apparent why Sze had come to see me. The press in Europe has published articles under a Washington date line about the United States considering the relationship of the current situation to the Four-Power Pacific Treaty's provisions. Sze said he felt that action under this treaty or under the Kellogg Pact of 1928 would be better for China than League of Nations action, since the stronger position of Japan in the League would militate against China. According to Sze, Japan can use its position by employing its relations to questions of Europe as trading points. Sze has no wish to fall between two stools, but if there is a possibility that Washington may take the action mentioned above, Sze does wish to avoid an appeal to the League, especially as he feels that possible American action might be prejudiced by prior League action. From the foregoing it will be noted that neither Japan nor China has as yet requested the League Council to act in this matter.

While listening to Sze's statements, naturally I made no comments. If the Department should make any public statements or any statements to the press on the situation, I should appreciate having their substance. It is probable that nothing will happen tomorrow, but at the meeting of the League Assembly, scheduled at present for September 22, the matter may come to a head. [End paraphrase.]

GILBERT

793.94/2216

*The Vice Consul at Mukden (Lynch) to the Minister in China
(Johnson)*²⁷

No. 446

MUKDEN, September 20, 1931.

SIR: I have the honor to advise the Legation as stated in my several telegrams of September 19 that at about 1 a. m. on that morning, Japanese troops entered the International Settlement at Mukden and surrounded the Native City. The city itself was invested in the early hours of the morning. Chinese troops were, at the first signs of trouble, ordered to retire without resistance. In so far as Mukden is concerned the transfer took place with no resistance from Chinese troops and with few indications of any desire to fight on the part of the Chinese. A few unfortunate incidents will be noted in this despatch. Since the taking over of Mukden, the Consulate General has been informed that Changchun, Newchwang, Antung and Kwang-chengtze were also taken over on the morning of the nineteenth. The

²⁷ Copy transmitted to the Department by the Vice Consul in his despatch No. 36, September 20; received October 19.

International Settlement has been quiet and Americans and other foreigners, although advised to remain at home after dark, have felt fairly safe.

Firing started about eleven o'clock on Friday evening and for some time thereafter it was believed by most people to indicate only the not unusual Japanese sham battle. At about eleven thirty, however, firing from heavier guns was heard from the southeast of Mukden. Shortly after twelve I proceeded to the Japanese Consulate General and was informed by Vice Consul Miura that Chinese troops had blown up two sections of the South Manchuria Railway at Pei Tai Ying near the Chinese north camp, a few miles north of Mukden; they had also opened fire on a detachment of Japanese troops who had defended themselves and called for enforcements. This was the explanation of the firing then heard. Unbelievable as it may sound, I am reasonably certain that the Japanese Consulate General did not know at that time that it was the intention of the military authorities immediately to occupy Chinese territory. They were, of course, intensely worried as to the probable repercussions of the affair but I very much doubt their having prior knowledge of the actual moving of troops. I was, while at the Consulate General, assured as to the entire safety of foreigners.

On Saturday, the nineteenth, the Consulate General notified Americans that while it had little doubt as to their safety, as an elementary precaution, it was recommended that they remain at home after dark. In company with the British Consul General I called on the Japanese Consul General at 5 p. m. to inquire as to what measures were being taken for the protection of the life and property of our nationals in the International Settlement and in the native city. The Japanese Consul General assured us that he had made every effort to impress upon the Commander-in-Chief, S. Honjo, the necessity for such protection and while he could not tell us the exact number of police, troops and gendarmes that would be available for this work, he had every hope that his urgings had had the desired effect. Mr. Hayashi told us in confidence that when the military came in charge they were extremely difficult to deal with. This fact has been obvious from the first. Both Mr. Eastes and I had to be satisfied with Mr. Hayashi's statement with regard to protection. I requested a special military guard for the National City Bank of New York and Mr. Eastes for the Hongkong Bank. It is now the night of September 20 and, although a few shots can be heard from time to time, it is believed that every precaution is being taken for the protection of foreigners.

The two code telegrams sent from this Consulate General early Saturday morning were returned from the Chinese telegraph office and

were sent Japanese lines via Shanghai. No assurance could be obtained as to their getting through in code and there was considerable doubt about telegrams *en clair*. Another telegram was, however, sent *en clair* and in order to make assurance doubly sure the Consulate General got indirectly into communication with Consul Langdon at Dairen and requested that he telegraph the bare details to the Legation, the Department and the Embassy at Tokyo. Up to this time this Consulate General does not know how many, if any, of its wires have been received by the Legation. True readings of the code telegrams and readings of the *en clair* telegrams are therefore enclosed.²⁸

This Consulate General finds it difficult to give credence to the Japanese explanation of the incident. The movement into Chinese territory was too sudden and too concerted to have been caused by an explosion on the South Manchuria Railway line at 10:30 p. m. Officials of the Consulate General have not given this as their own explanation but they confine themselves to saying "We have been informed by the military authorities that, etc. etc." At 5 p. m. on the afternoon of the eighteenth I called at the Japanese Consulate General to ascertain if there were any new developments in the Nakamura affair. I found that it was felt to be progressing very satisfactorily due to the conciliatory attitude recently adopted by the Chinese. To quote a statement made to me that day by an official of the Japanese Consulate General when discussing the possibility of trouble: "The Chinese are very wise to adopt a conciliatory attitude and tell the truth in this matter for Japan holds two sabres, the South Manchuria Railway lines from Dairen to Mukden and from Korea to Mukden. But Japan with this strength in the form of these sabres would be very wrong to use it unless something very bad were done by the Chinese and unless they refused to treat the matter fairly."

The "something very bad" happened but I cannot believe that the Japanese Consulate General had any idea that it was going to happen and I do not believe that the Japanese consular officials give any credence whatsoever to the military authorities' statement that the affair was a matter of Chinese aggression.

Captain Mayer's telegram of 6 p. m. September 20 gives a very clear account of Japanese military activity so far, which he obtained from the Japanese military authorities. There were a few incidents of what is believed to have been unnecessary terrorism. Japanese troops are reliably reported to have seized the Trench Mortar Arsenal,

²⁸ None found in Department files.

to have killed the military guards who offered no resistance and to have tossed hand grenades into the workmen's quarters killing twenty men. The old gateman at the Chinese Post Office made a faint gesture of protest when troops took the postmen's bicycles and received a terrible beating with rifle butts for his pains. He was sent to the Hospital. It is understood that Chinese policemen were shot in many instances when a few police boxes endeavored mistakenly to resist the Japanese. This morning Mr. Sugden, the British works manager of the Peking-Mukden Railway shops, endeavored to reach his office in his car driven by a Chinese chauffeur and draped with the British flag. The car was stopped the chauffeur beaten and the British flag torn from the car stamped and spat upon. Mr. Sugden escaped with a torn coat. The British Consul General protested strongly to the Japanese consular authorities and Mr. Hayashi, the Japanese Consul General, immediately called in person on the military authorities. An apology is expected soon. As was stated in my telegram of eight a. m. September 19, a Chinese chauffeur was killed opposite the Mukden Club at about two a. m. The owner of the car died in the morning from wounds received. Stray bullets entered the Mukden Club and in addition damaged the motor cars of several Americans in the Club compound. No foreigners were hurt. A protest was made by this office to the Japanese Consulate General and expressions of extreme regret as well as assurances of future safety for Americans were received. However, when it is considered that a city of some 400,000 people changed from Chinese to Japanese hands literally overnight it must be admitted that there has been remarkably little bloodshed and few untoward incidents.

Respectfully yours,

ANDREW G. LYNCH

793.94/1816 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

GENEVA, September 21, 1931—2 p. m.

[Received September 21—11:30 a. m.]

148. Relative to armed clash in Manchuria between forces of China and Japan, Sir Eric Drummond²⁹ could offer no unprejudiced information and he queried of me whether you would furnish him with facts for his own guidance.

Drummond desires to have also your opinion on the involvement of the Kellogg Pact in this matter and the basis for your views.

WILSON

²⁹ Secretary-General of the League of Nations.

793.94/1813 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 21, 1931—3 p. m.
[Received September 21—9:20 a. m.]

616. Reuter report from Nanking, 20th :

"A second note was handed to Mr. Shigemitsu ³⁰ this afternoon demanding immediate withdrawal of Japanese troops from territories forcibly occupied and the restoring of normal conditions. Note says that Chinese Government also reserves all rights to adopt future appropriate action.

Central Executive Committee ³¹ held 5-hour session today to consider the position and decide[d] to declare September 23d as a national humiliation day in connection with recent events, when all flags will be flown at half mast, places of amusement closed and social functions suspended."

JOHNSON

793.94/1817 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 21, 1931—5 p. m.
[Received September 21—11:45 a. m.]

617. Assistant Military Attaché of this Legation called on Japanese Military Attaché this afternoon and obtained from him following information :

"Japanese subjects in Harbin and Kirin are in a dangerous position. In Kirin they have all been collected in the Japanese Consulate and have sent an appeal to the military authorities in Mukden for protection. Chang Tso-hsiang, Governor of Kirin, is apparently away and his second in command says that he is unable to protect Japanese subjects. In Harbin the situation is also grave, accordingly General Honjo has ordered the Second Japanese Division to proceed to Kirin and Harbin from the neighborhood of Mukden. This movement as I understand it has not begun as yet. Japanese Military Attaché said that Chinese troops were gathering for an attack on Szeping kai, the Fushun coal mines, and implied that they were also about to attack Japanese in Kirin.

When asked as to what Soviet Russia would say to the occupation of Harbin he replied that he did not think they would actually fight or move any troops but that Japanese would be exposed to all kinds of subversive tactics.

He further stated that a mixed brigade was being held on the Yalu River under readiness for duty in Manchuria and that he considered that reinforcements of the Manchurian garrison were absolutely

³⁰ Japanese Minister in China.

³¹ Of the Chinese Nationalist Party (Kuomintang).

necessary although he claims that he does not know that these reenforcements will take place.

Japanese Military Attaché denies that Kowpangtze and Hulutao have been occupied."

Repeated to Tokyo.

JOHNSON

793.94/1903

The Chinese Chargé (Yung Kwai) to the Secretary of State

WASHINGTON, September 21, 1931.

SIR: I have the honor to inform you that I am instructed by my Government to bring to your attention the occupation of Chinese territory by Japanese troops in Manchuria.

Japanese troops near Shenyang (Mukden), without the slightest provocation, opened an attack on the Chinese barracks on September 18, at 10 P. M. and continued bombarding the Chinese camps and arsenal, killing a large number of Chinese people in spite of the complete nonresistance of the Chinese troops. The whole city of Shenyang and its vicinity were occupied by Japanese troops by September 19, at 6:30 A. M. The occupation of Antung is already confirmed, and possibly other places also are now under Japanese military control.

As the United States, China and Japan are all signatory powers of the Kellogg Pact, and as the United States is the sponsor of the sacred engagements contained in this Treaty, the American Government must be deeply interested in this case of unprovoked and unwarranted attack and subsequent occupation of Chinese cities by Japanese troops, which constitutes a deliberate violation of the Pact. The Chinese Government urgently appeals to the American Government to take such steps as will insure the preservation of peace in the Far East and the upholding of the principle of peaceful settlement of international disputes.

Accept [etc.]

YUNG KWAI

793.94/1821 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 21, 1931—5 p. m.

[Received 7 p. m.]

118. Consulate's number 116, September 20, 4 p. m. The Secretary General circulated to the Council late this afternoon a note which he had just received from a representative of China on the Council. The Secretary General in agreement with the President of the Council has convoked the Council to meet tomorrow morning to take up this matter.

The Chinese note dated today is as follows:

"I am instructed by the National Government of China to bring to your attention the facts stated below and to request that in virtue of article 11 of the Covenant of the League of Nations you forthwith summon a meeting of the Council of the League in order that it may take such action as it may deem wise and effectual so that the peace of nations may be safeguarded.

Through statements made to it at its meeting on September 19 by the representatives of China and Japan, the Council was advised of the fact that a serious situation had been created in Manchuria. In his statement at that meeting the representative of China declared that the information which he then had, indicated that the situation had been created through no fault on the part of the Chinese. Since September 19 the undersigned has received from his Government information which discloses a situation of greater gravity than had appeared by the first report and which revealed that beginning from 10 o'clock of the night of September 18th regular troops of Japanese soldiers without provocation of any kind opened rifle and artillery fire upon Chinese soldiers at or near the city of Mukden, bombarded the arsenal and barracks of the Chinese soldiers, set fire to the ammunition depot, disarmed the Chinese troops in Changchun (Kwangchengtse) and other places, and later took military occupation of the cities of Mukden and Antung and other places and of public buildings therein, and are now in such occupation. Lines of communication have also been seized by Japanese troops.

To these acts of violence the Chinese soldiers and populace acting under instructions from the Chinese Government have made no resistance and have refrained from conduct which might in any way aggravate the situation.

In view of the foregoing facts the Republic of China, a member of the League of Nations, asserts that a situation has arisen which calls for action under the terms of article 11 of the Covenant. I am therefore instructed by my Government to request that, in pursuance of authority given to it by article 11 of the Covenant, the Council take immediate steps: to prevent the further development of a situation endangering the peace of nations; to reestablish the *status quo ante*; and to determine the amounts and character of such reparations as may be found due to the Republic of China.

I will add that the Government of China is fully prepared to act in conformity with whatever recommendations it may receive from the Council, and to abide by whatever decisions the League of Nations may adopt in the premises."

GILBERT

793.94/1825 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 22, 1931—11 a. m.

[Received September 22—9:55 a. m.]

620. Following from Mukden:

"September 21, 8 p. m. Japanese military occupation is being extended to Kirin for the purpose of maintaining order in that city.

Heavy movement of troops and artillery north from Mukden yesterday. Main body of Japanese troops now at Changchun. Practically all Chinese forces have been brought down the Peiping-Mukden Railway to Chinchow and Shanhaikwan. Japanese have taken no point west of Mukden on the Peiping-Mukden Railway. It is estimated that over 20,000 panic-stricken Chinese have already fled on trains towards Shanhaikwan. A provisional administration of Chinese has been appointed in Mukden walled city under the direction of the Japanese in an attempt to reassure Chinese and stop the exodus. Chinese banks have been taken by the Japanese and reports are that they are removing stocks of silver. A request from the Japanese authorities for information concerning Chang Hsueh-liang bank account was refused politely today by the National City Bank. Mukden has been quiet today."

JOHNSON

793.94/1816 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson), at Geneva

[Paraphrase]

WASHINGTON, September 22, 1931—1 p. m.

119. You may inform Drummond that I too am insufficiently informed of the facts of the situation. Nevertheless, it is apparent that the Japanese military have initiated a widely extended movement of aggression only after careful preparation with a strategic goal in mind. The military chiefs and Foreign Office are evidently sharply at variance as to intention and opinion. Consequently, it would be advisable, in preparations to strengthen and support treaty obligations, that Japanese nationalistic feeling be not aroused against the Foreign Office and in support of the Army. The Department is watching with concern the development of events there and the relationship of the events and situation to obligations under the treaties, especially the Nine-Power Treaty of February 6, 1922, and the Kellogg-Briand Pact of 1928.

STIMSON

793.94/1827 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 22, 1931—3 p. m.

[Received September 22—10:25 a. m.]

624. Following from Consul General, Nanking:

"September 21, 4 p. m.

1. In conversations with Hsu Mo and Tyau of the Foreign Office September 21, 3 p. m., I have learned following interesting rumors:

Reported from the United States that the Secretary of State has been following Manchurian situation closely and has stated that at time of speaking Kellogg Pact was not involved. This report was given me by a Chinese as being refusal of the United States to intervene against Japan. Second rumor is that at least 24 hours before Japanese action at Mukden the Japanese Government inquired of important Governments, notably Great Britain and the United States, whether they would consent to such action by Japan, the answer being in the affirmative, but that Japan must not push action too far. Third rumor is that Russia has concentrated 30,000 troops near Manchouli.

2. I urged on Hsu Mo the desirability of my being kept fully informed so that I might in turn keep the Department of State fully cognizant of the changing situation. Apparently in response to this Hsu Mo told me Karakhan³² had inquired of Mo Te-hui³³ in Moscow regarding course of controversy with Japan, and the Chinese Foreign Office had replied giving desired information. Answering my question Hsu said that Karakhan indicated no sympathy for China in the dispute nor any intention of safeguarding by military force Russian interests in Manchuria if or when threatened by Japan.

3. Central Party Headquarters of the Nationalist Party has declared September 23rd day of humiliation for Japan's recent actions. There is a feeling here that if the Western Powers maintain an attitude of detachment in this controversy the Nationalist Party, the Chinese Government, and the people of China may seek Russian alliance with far-reaching results."

JOHNSON

793.94/1830 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 22, 1931—4 p. m.
[Received September 22—12:40 p. m.]

120. Consulate's 118, September 21, 5 p. m. The Sino-Japanese conflict was taken up by Council this morning. After a lengthy debate between the Chinese and Japanese representatives Lord Cecil³⁴ made a statement in regard to the procedure which the Council should follow and closed his remarks in the following words:

"One other matter I think I ought to mention. We are all aware that [there] are certain treaty obligations—or international instruments, let me call them—which affect this dispute beyond the League of Nations. There is, of course, the Briand-Kellogg Pact—the Pact of Paris, and there is also the treaty relative to the principle[s] and policy concerning China signed by the United States and other powers. In both these instruments the United States of America are very closely interested, in the first place as one of the promoters of the Pact of Paris and in the second as one of the signatories of the latter

³² Soviet Vice Commissar for Foreign Affairs.

³³ Chinese delegate at Chinese-Soviet conference in Moscow.

³⁴ British representative on the Council of the League of Nations.

treaty. It seems to me that we should do well in these circumstances to communicate to the United States a statement of all the proceedings of this Council and of all the discussions which have taken place within it. The United States Government will then be fully informed of what we are doing and they will be able to take any action they think right in connection with the subject."

This suggestion has not yet been formally approved by the Council but there is a strong probability that it will be adopted.

Upon the termination of the discussion the Council was adjourned for 15 minutes to enable the President to draft a resolution dealing with the Sino-Japanese conflict but at the end of one-half hour he announced that the question was not yet in a position in which he could put the resolution before the Council and in order to allow further time for consideration adjourned the meeting until 3:30 this afternoon.

The Consulate will submit a report of the day's proceedings in a later report.

GILBERT

793.94/1834: Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

[Paraphrase]

LONDON, September 22, 1931—6 p. m.

[Received September 22—3:50 p. m.]

376. The Japanese Ambassador here has just called and says that on September 26 he departs for Tokyo aboard the *Bevergaria* to New York. Upon the insistence of his Government Matsudaira has reluctantly agreed to serve as chairman of the Japanese delegation to the Disarmament Conference next February. He states that representatives of the Army and [Navy?] will be in the delegation. In preparation for this assignment he expects to be away from his post here until the convening of the Conference.

The official advices the Ambassador has received pertaining to the trouble in Manchuria are, in his opinion, somewhat disturbing. In comparison with the estimated force of 10,400 men which Japan has in Manchuria he places the strength of the Chinese at over 200,000 and their heavy guns around Mukden alone at about double the amount available to the entire Japanese Army. Matsudaira states that the Japanese Government and that of China, too, in his opinion, are attempting to bring the conflict to an end. As to the concentration of Soviet troops, he is without knowledge, although he is perturbed by such reports in the press.

The action of the Japanese military commander at Mukden was not authorized by the War Office at Tokyo and obviously was without the knowledge of the Japanese Government, according to the understanding of the British Foreign Office. The latter feels that the ill effects of a Chinese boycott upon the industry of Japan will make the Japanese only too anxious to seek a solution compatible with their national dignity.

Answering an inquiry, the Foreign Office considers that any material Soviet assistance to the Chinese is not at all probable.

Matsudaira states it is urgent for him to reach Tokyo at the earliest moment, so he does not plan to stop over in Washington. It would be best for you to send me a cable now in case you wish to see him en route across the United States, so that he could alter his plans.

DAWES

793 94/1832: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 22, 1931—6 p. m.
[Received September 22—4: 17 p. m.]

123. Consulate's 120, September 22, 4 p. m. Mr. Wilson was formally handed a resolution presented by the President of the Council and passed by the Council at its session this afternoon, together with a covering letter enclosing also the minutes of the Council meetings held today relating to the appeal from the Chinese Government under article 11 of the Covenant, together with other documents relating to this question. These papers are being forwarded to the Department.³⁶

The resolution referred to above reads:

"My colleagues and I have listened this morning with the closest attention to the statements of the representatives of China and Japan. We take due note of the request of the representative of Japan to adjourn the discussion of the question until the next meeting.

I request the Council to authorize me:

First, to address an urgent appeal to the Governments of China and Japan to abstain from any act which might aggravate the situation or prejudice the peaceful settlement of the problem;

Second, to seek in consultation with the representatives of China and Japan, adequate means whereby the two countries may proceed immediately to the withdrawal of their respective troops without compromising the security of life of their nationals or the protection of the property belonging to them.

I ask the Council to decide to forward for information the minutes of all the meetings of the Council together with the documents relating to this question to the Government of the United States of America."

GILBERT

³⁶ Despatches No. 2236, September 23, and No. 2237, September 24, not printed.

793.94/1851

The British Embassy to the Department of State

AIDE-MÉMOIRE

The Chinese Government have appealed to the League under Article 11 of the Covenant to intervene in the Mukden affair and the Council were to discuss the question on the morning of the 23rd of September.

His Majesty's Government and the French Government agree in favouring a proposal for the simultaneous withdrawal of troops and the despatch of the British and French Military Attachés from Tokio to Mukden, whither the Military Attachés from Peking have already proceeded. The Military Attachés would act as neutral observers on the spot to verify withdrawal, so that each side might have assurances that the other side were carrying out their part. The proposal for the withdrawal of troops and the despatch of neutral observers would have the object of preparing the ground for direct negotiations; if these failed or proved difficult, either side might then invoke outside intervention.

His Majesty's Government desire to inform the United States Government of the action they are taking and they would be glad to learn whether or not the latter contemplate urging moderation on both sides.

WASHINGTON, September 22, 1931.

793.94/1827 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, September 22, 1931—6 p. m.

75. Your 624, September 22, 3 p. m.³⁷ First, the Secretary of State has not made the statement attributed to him; second, the American Government was in no way consulted or informed in advance. You may so inform your interlocutors.

STIMSON

793.94/1820 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, September 22, 1931—6 p. m.

58. Your 116, September 20, 4 p. m., final paragraph. The press has been given no statement on this subject other than the following, which was dated September 19 :³⁸

³⁷ Reference is to telegram from the Minister in China, p. 20.

³⁸ Quotation not paraphrased.

"The Department is informed from American official sources that Japanese troops have occupied Mukden, Newchwang, Changchun, Antung and Kowpangtze and have taken over all Government services. The reports state that all foreigners are safe."

Correspondents at Department daily press conferences have raised the question of applying the Kellogg-Briand Pact of 1928 and the Nine-Power (not Four-Power) Treaty of Washington, but a non-committal attitude has been taken by the Department. See the Department's 119, September 22, 1 p. m., to the Minister in Switzerland for the Department's position thus far.

STIMSON

793.94/1849 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 22, 1931—7 p. m.
[Received September 23—12:10 p. m.]

124. Consulate's number 120, September 22, 4 p. m. The proceedings in the Council this morning with the exception of Lord Cecil's statement at the close, referred to in the Consulate's telegram under reference, were entirely confined to a series of statements on the part of the Chinese and the Japanese delegates on the Council. The Chinese delegate spoke first. The substance of these is as follows:

China. Sze read two telegrams which he had just received from Nanking. These telegrams outlined factual developments in the conflict area, giving towns occupied, etc. He then stated that the total area which had been occupied by the Japanese troops was as extensive as that of Great Britain and Ireland. He said that these messages gave a very gloomy picture but he was afraid that even so it was incomplete, as the Japanese had cut communication between that area and Nanking, and that he believed the situation to be more grave than at the time he despatched his note to the Secretary General (Consulate's 118, September 21, 5 p. m.).

His position was that it had become a question whether application of other articles than article 11 of Paris Covenant might not be required, although this might be prevented by prompt and effective action on the part of Japan. He then brought forward again the steps which he had requested the Council to take in his note to the Secretary General: (1) To prevent the further development of a situation endangering the peace of nations, (2) to reestablish the *status quo ante*, (3) to determine the reparations due to China.

Japan reported. Yoshizawa³⁹ expressed his intention of replying to the Chinese delegate's statement as soon as he had received instruc-

³⁹ Kenkichi Yoshizawa, Japanese Ambassador in France and representative on the League of Nations Council.

tions from his Government. In the meantime he wished to offer a few observations in an attempt to clear up the position and to determine the scope of the problem. He stated that in order to understand the situation, it was necessary to consider the nature of region where the incident occurred, and proceeded to lay stress upon the enormous Japanese interests there and rights guaranteed by treaties. He called attention to the great disproportion between the small garrison of soldiers maintained there by Japan and the very large Chinese army in that region. He declined to accept the Chinese affirmation that the incident took place without provocation on the part of Chinese troops and added that, according to official information in his possession, the incident was caused by the destruction by Chinese troops of part of the railway near Mukden, which necessitated the taking up of arms by the small Japanese garrison there. From this it became necessary to occupy important points in certain towns in order to prevent further incidents and to protect the railway and the life and property of Japanese nationals resident in the district. He then stated that this incident was not an isolated event but was rather an explosion due to a tension which had been created by a number of earlier occurrences such as the murder of Captain Nakamura by Chinese soldiers.

Referring to the Chinese demand for reparations, he considered it unjust to make any such claim until the Council had finished discussing the merits of the case. He contended that the settlement of the question of the reestablishment of the *status quo ante* could not be properly settled except on the spot and by taking into consideration the various factors in each locality.

He assured the Council that the incident was a local one and that immediately after its occurrence the Japanese Government had sent a formal order to the commander of the Japanese forces in Mukden to take the necessary steps to prevent an extension of the troubles. He added that his Government was far from the idea of making war on the Chinese Republic.

He asserted that, according to latest reports he had received, a proposal had been made by the Chinese that a solution should be sought by direct negotiations between the two Governments. He implied that this proposal was welcomed by his Government and added that in his judgment premature intervention would only have the result of needlessly exciting Japanese public opinion and thus impede the pacific settlement of the situation. He expressed the conviction that a pacific settlement could best be achieved by direct negotiations between the two Governments. Finally, in view of the fact that he had not yet received instructions, he requested the Council to postpone the matter until its next meeting.

China. Sze replied by noting that Yoshizawa's views were personal inasmuch as he had admitted that he had not yet received instructions

from his Government. With respect to the accuracy of his own statements regarding the cause of the incidents as questioned by the representative of Japan, he declared that China was quite willing to submit to an inquiry to be carried out by a commission appointed by the League and to leave the entire matter in the hands of an impartial commission. In respect of the case of alleged murder of Nakamura and other cases as being brought forward by Japan as the causes leading to the present incident, he declared they were quite irrelevant, as there are diplomatic and juridical means provided for the settlement of such questions. As to the contention of the Japanese that their recent measures were defensive, he stated that that was not an excuse which could be accepted by the Council, as on previous occasions the Council had clearly specified that no nation could use defensive measures as excuses in such case and that this view had been indorsed by the representative of Japan who was on the Council at the time. In this he referred to the minutes of the 36th extraordinary session of the Council in October, 1925, pages 1699-1709.⁴⁰

With reference to the statement by the Japanese delegate that the Chinese had proposed direct negotiations, he denied this by implication declaring that China would not enter into diplomatic negotiations when a large portion of her territory was under military occupation by another country and further, when that very country had already resorted to means other than diplomatic measures. With reference to the Japanese delegate's question whether this matter was within the competence of the Council, he declared that he did not think that there was the least doubt on that score, inasmuch as cases of a far less serious nature had previously been taken up, examined and adjusted by the Council.

Japan. Yoshizawa, referring to Sze's contention that he was not acting under instructions from his Government and the information which he furnished was his own, clarified this point by saying that he meant only that he had not received instructions from Tokyo as to the policy he was to follow but that the information he had submitted came from his Government. With reference to Sze's statement that communications had been cut off from Manchuria, [Yoshizawa?] had asserted that the first news regarding the incidents in question had come from Peiping and that he inferred that the telegram from Peiping was based upon information transmitted from Manchuria. Later telegrams appearing day after day in the press he believed to have been supplied by Chinese reporters Manchuria. Thus, although he did not assert that communications in Manchuria were intact, he thought it incorrect to say that information from Manchuria was

⁴⁰ Printed in League of Nations, *Official Journal*, November 1925.

meager. He also, with reference to Sze's statement that the Japanese position was that the consideration of the question did not come within the competence of the Council, stated that what he had meant was that the incident was one which might be settled by means of direct negotiations between the two Governments. He added that he had reason to believe that the Chinese Government was also inclined to settle the question in that manner, inasmuch as he had received official information from his Government that a high official of the National Government at Nanking had spoken to the Japanese Minister to that effect. He added that according to the latest telegrams received, his Government was ready to accept this proposal though he had not yet been informed whether the answer had yet been communicated to the Government of China in that sense. He declared to the Council, however, that his Government was ready to accept this suggestion.

China. Sze, referring to statements which the Japanese representative had said were made by a Chinese official looking to direct negotiations, would point out that at the present moment no direct negotiations were in progress. He implied that if such statements were made on the part of a Chinese official, they were unfounded. He repeated that speaking for his Government the case was left to the Council.

Japan. The Japanese delegate contented himself by saying that the Chinese official to whom he referred as making suggestions to the Japanese Minister looking to direct negotiations, was one holding one of the most important portfolios in the Chinese Government and that after mature consideration the Japanese Government is inclined to express its agreement with the suggestions made by this very responsible official.

GILBERT

793.94/1811 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 22, 1931—8 p. m.
[Received September 23—9:25 a. m.]

125. Consulate's No. 124, September 22, 7 p. m. The afternoon session of the Council was delayed one hour later than anticipated due to difficulty in arriving at previous agreement concerning the terms of the resolution quoted in the Consulate's No. 123, September 22, 6 p. m.

The Japanese delegate spoke first giving assurance of the purpose of Japan to remain faithful to the terms of its international engagements under the Covenant and the Kellogg Pact. He reiterated briefly the statements which he had made in the morning concerning the tense situation leading up to the conflict.

The Chinese delegate followed with a statement emphasizing China's peaceable intentions and referred to further telegrams which he had received from his Government indicating that the situation was becoming worse and worse every hour and that acts of a revolting character were being perpetrated by Japanese troops. He urged the Council to send a commission of inquiry to the spot at the earliest moment and insisted that the element of time was essential in a situation of this character especially in view of the information he had received to the effect that the extent of the occupation of Chinese territory had not diminished but was being extended.

The President of the Council then requested authorization to take the steps indicated in the Consulate's No. 123, September 22, 6 p. m. The delegates of Germany, France, Italy, Holland, Great Britain, Panama, and Norway then spoke expressing approval of the action suggested by the President but stressed the fact that it constitutes only a preliminary step which must be followed up by other measures intended to achieve a final settlement. There is no difference of emphasis on the responsibility of the Council and the necessity of safeguarding its authority.

The Chinese delegate accepted this procedure as a provisional measure although it did not get as far as he desired and expressed the hope and expectation that this would be followed by such other acts of the Council as the circumstances demanded. He urged that the next meeting of the Council to consider further measures should take place as soon as possible and suggested an examination of the whole situation "under the auspices of and the control of the League of Nations."

The Japanese delegate assented to the resolution and stated that with respect to the next meeting of the Council to consider this matter he could not indicate more fully than he had already done the attitude and policy of his Government until after he had received instructions from the latter.

GILBERT

793.94/1839 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 22, 1931—9 p. m.
[Received 9:45 p. m.]

126. At the end of the Council's session this afternoon the President of the Council, the representative of Spain, asked if some of his colleagues would meet with him to consider certain steps which might be taken in the present situation. In conformity with this request the President met with the representatives of Germany, Great Britain, France, Italy, Japan and China. While this group was not formally constituted as a Council committee it is in effect a committee.

[Paraphrase.] It is learned from confidential sources that the discussion centered chiefly on the advisability of sending to the disturbed area an investigation commission of military officers to report on the factual situation; that agreement with this course was expressed by the Chinese representative; but that time to query his Government was asked by the Japanese representative. Now apparently the committee is waiting for a Japanese reply.

It is currently rumored that the committee also discussed the question of an invitation to the United States to take part in this investigating commission and that this course was favored by a majority of the committee members. [End paraphrase.]

GILBERT

793.94/1833 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 22, 1931—9 p. m.

[Received 9:15 p. m.]

127. Consulate's 123, September 22, 6 p. m. The text of identic telegrams despatched today by the President of the Council to the Governments of China and Japan is as follows:⁴¹

"I have the honor to inform you that the Council of the League of Nations in its session today devoted to the appeal of the Chinese Government based on article 11 of the Covenant with regard to the situation in Manchuria has authorized me unanimously,

(1) To address an urgent appeal to the Governments of China and of Japan to abstain from any action calculated to endanger the situation or to prejudice the pacific settlement of the problem.

(2) To promulgate, in consultation with the Chinese and Japanese representatives, adequate means to compel [*enable?*] both countries to proceed immediately to the withdrawal of their respective forces without compromising the security of their nationals and the protection of their belongings.

(3) The Council has furthermore decided to transmit, for purposes of information, the minutes of all the meetings of the Council and the documents concerning this affair to the Government of the United States of America. I hold the firm conviction that in response to the appeal that the Council has authorized me to address to you, your Government will take all necessary measures in order that no action susceptible of endangering the situation or of prejudicing the pacific settlement thereof may be taken.

Furthermore, I shall begin the consultations foreseen with the representatives of Japan and China for the execution of paragraph (2). I have consulted on the decision taken in paragraph (3) with the representatives of Germany, Great Britain, France and Italy."

GILBERT

⁴¹ For official English text. see Senate Document No. 55, 72d Cong., 1st sess. :

793.94/1831 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

GENEVA, September 22, 1931—11 p. m.

[Received September 22—9:52 p. m.]

156. Reference Consulate's 126 and 127, September 22, 9 p. m. After the Council's small committee meeting, I was asked by Drummond to call, and he stated that the committee had authorized him to inform me that it was contemplating sending to Manchuria an investigating body made up of military and/or civilian members as observers. The Chinese representative has given his consent, while the Japanese representative has made objections; however, he will press his Government for instructions. Drummond says the investigation will in any case be undertaken, if necessary under the authorization of China alone, the sovereign in Manchuria.

The small committee also discussed some action through identic or similar notes, though this was felt to be perhaps premature, because of the imperfect knowledge of the facts and of the uncertainty regarding cooperation by the United States.

It is earnestly desired by Drummond that you give me any expression of opinion you can and as urgently as possible by cable or telephone as to whether, if invited, the United States can consider cooperating in the action contemplated in either of the paragraphs above.

The Council is impressed profoundly with the urgency and the seriousness of the situation. Never have I seen here a situation so tense or in which American cooperation is desired so earnestly.

WILSON

793.94/1940

The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation^{41a}

[NANKING,] September 22, 1931.

Today's Rengo report from Tokyo stating that the Japanese Government has decided to accept the Chinese Government's formal proposal for the formation of a Sino-Japanese Joint Investigation Committee is not true.

The Chinese Government has never made such a proposal, formal or informal.

^{41a} Copy of telegram handed by the Chinese Chargé to Mr. Ransford S. Miller of the Division of Far Eastern Affairs, September 23.

793.94/1854 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, September 23, 1931—1 a. m.

[Received 2:30 p. m.]

129. Certain aspects of the China-Japan question as seen here may assist the Department to understand the situation at Geneva.

1. The Japanese representative here is very apparently in a most difficult position; I learn on the best authority that such information as he has had from his Government regarding the current situation is meager and almost evasive.

2. I am told by Sugimura⁴² that he sees in the present situation for Japan a fight to the finish between military and civil authorities there and that the obvious plight of the Japanese representative in Geneva is merely a reflection of what is transpiring in Tokyo.

3. The Japanese representative, I understand, is pleading with his Council colleagues for more time and alleges as a reason that unless the Japanese civil authorities are allowed a reasonable length of time to prepare public opinion, the repercussions of the current situation will bring about internal dangers in Japan.

4. At present the Council is taking two things into consideration, namely, Japan's replies on her "policy" and on the proposed military investigating commission.

5. Privately, the Chinese representative has stated that his Government did not wish to invoke the Kellogg-Briand Pact, since for technical reasons China did not desire to admit by inference the existence of a "state of war", understood to be envisaged by provisions of the pact.

6. The comment has been made that at no time has the Soviet Union been mentioned in the discussion here. However, it is rumored that there is an understanding between Japan and Russia, based upon the latter's hostility to the present Chinese Government.

7. The British delegate, Lord Robert Cecil, seized the initiative in the proceedings of the Council and largely dominated the action.

8. I am having "constant appeals" made to me on the part of representatives here of the world powers, in the strongest and most serious terms, that their Governments look to the United States for action as the chief hope in a situation the gravity of which they consider cannot be overstated.

GILBERT

⁴² Japanese Under Secretary-General of the League of Nations.

793.94/1837 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 23, 1931—1 p. m.
 [Received September 23—9:05 a. m.]

631. Consul General, Harbin, telegraphs:

"September 22, 1 p. m. Chinese authorities have informed me that the Chinese troops evacuated Kirin city night of September 21st and that Japanese troops entered city this morning at 8 o'clock."

JOHNSON

793.94/1848 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

GENEVA, September 23, 1931—1 p. m.
 [Received September 23—11:45 a. m.]

I delivered to Drummond the message contained in your telegram No. 119, September 22, 1 p. m. Drummond says the reports this morning are still more serious, while rumors indicate Japanese occupation has reached the Great Wall. The urgent desire for cooperation by the United States is steadily increasing, and Council members have been insistent that the United States be urged to cooperate in an active way in the deliberations. Drummond has conveyed in the most tentative way the wish that you could be consulted in regard to the measure of cooperation which might be possible. In his opinion, there are two steps which the United States might consider adopting:

- (1) An American to be invited to sit on the League Council—a step which he regards as the boldest and perhaps the most effective possible because of its effect on public opinion in Japan; and
- (2) Definite appointment by the Council of a small committee (France, Germany, Great Britain, Italy, and Spain, the latter presiding) to be a regular "Council committee", and a request to the United States to appoint an American representative.

The first step, of course, is subject to action by the Council. In Drummond's opinion, a suggestion that the United States participate would be accepted gratefully and eagerly, except perhaps by Japan, but the Japanese representative would not dare to protest publicly.

For the second step there is a precedent in the appointment of the Liberian Committee, and while Drummond thought you might find this step easier, he feels the first suggested course would naturally be more effective.

Should you be able to adopt the bolder step, there will be general gratitude and relief on the Continent, especially in France, but I realize, of course, that judgment as to the feasibility of such a step will depend upon the state of American public opinion.

Concerning possible resistance by Japan to American participation, suggesting such participation in deliberations of the Council might help to strengthen the resistance of the Japanese Foreign Minister to military influence.

WILSON

793.94/1847 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 23, 1931—2 p. m.
[Received September 23—10:20 a. m.]

632. Following unsigned but apparently from American Consul at Mukden:

"September 22, 9 a. m. Civil government in Mukden in process of organization along the following lines: Mayor will be a Japanese; the principal municipal departments will be under the joint control of Japanese and Chinese chiefs; all subordinate positions will be filled by Chinese. Doihara, formerly in Kuantung army, is to be Mayor of Mukden. Difficulty is being experienced in securing Chinese willing to participate. It is planned to have similar municipal governments in Antung, Newchwang, Changchun, Ssupinghai, and Kirin.

Occupation of Kirin city by Japanese was completed yesterday and the Chientao area is being similarly occupied. Japanese do not intend to send troops to Taonan and the Hsingan area, at least for the time being.

As all Chinese soldiers have moved out, the maintenance of order at Huangkutung, the present terminus of the Peiping-Mukden Railway, will probably necessitate Japanese occupation today or tomorrow.

Regular Japanese troops in occupation of Manchuria now number approximately 16,000, not including military police, train guards and civilian reserves under arms."

JOHNSON

793.94/1852 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 23, 1931—2 p. m.
[Received 2:25 p. m.]

131. Consulate's 125, September 22, 8 p. m. Telegrams referred to in statement of Chinese delegate before the Council yesterday afternoon have now been communicated together with additional messages received this morning. These telegrams declare Japanese are extend-

ing operations in Manchuria and give some details regarding casualties and extent of occupation. The situation in Harbin is declared to be tense as Chinese soldiers are concentrating after having evacuated other points in pursuance of Chang Hsueh-liang's orders to avoid clash with Japanese. The text of a statement issued by Chiang Kai-shek declaring that China has asked League to obtain as a first step the immediate withdrawal of the invaders and to help in finding a peaceful solution of this conflict, was included. He added that the National Army had received strictest orders to avoid clashes with Japanese.

The Chinese Government informs the Council that it is not conducting any direct negotiations with Japan since the case has already been laid before the League.

The telegrams received by Chinese delegates this morning report that relief authorities in China have refused foodstuffs and medicine offered by Japan for flood sufferers.

Does the Department wish the text of the Chinese telegrams referred to and those referred to in Consulate's 124, September 22, 7 p. m.? They comprise approximately 2,500 words and will be probably followed by others.⁴⁴

Another Council meeting will be held at 6:45 this evening to consider the situation again.

GILBERT

793.94/1844 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 23, 1931.

[Received September 23—10 a. m.]

633. Reuter reports from Nanking, 22d :

"Japanese women and children are evacuating Nanking tomorrow, Wednesday, at 11 a. m. Japanese Consul has requested that due protection be afforded them when embarking.

General Chiang Kai-shek, addressing mass meeting of Kuomintang today, declared in course of his speech :

"For the moment we await judgment of the world and we must suppress our indignation and remain calm but if League of Nations and signatories of Kellogg Pact fail to uphold justice the National Government is prepared for a final and supreme struggle. I shall lead the Army to fight for preservation of our race and to uphold dignity of our people. I shall go to the front and if need be fall with other patriots."

JOHNSON

⁴⁴The Department requested that texts be transmitted by mail.

793.94/1850 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 23, 1931—4 p. m.

[Received September 23—1:15 p. m.]

635. From Consul General at Harbin:

[“]September 22, noon. Late last evening unknown person threw bombs into Japanese Consulate, Japanese military mission building, Chosen bank and Japanese newspaper office; but little damage was done. Chinese civil officials very much disturbed and have appealed to the British Consul General and myself for advice. Chinese police so far have the situation in hand.

2. Reports concerning Kirin city conflicting, but it appears to be intention of the Japanese troops moving toward city to occupy same if they have not already done so.

3. Soviet troops are no doubt gathering at frontier points especially near Manchuria Station, but no evidence that they have moved into Chinese territory.”

Also September 22, 4 p. m.

“1. Local Chinese troops, some of whom have deserted, have been transferred from barracks to outskirts of Harbin, some to the Heilungkiang Province side of Sungari River. This is in preparation for withdrawal in case Japanese troops come to Harbin.

2. Chinese officials at a meeting this morning decided to take stronger police measures to maintain order in the city.

3. These officials and a portion of Chinese community becoming bitter against Soviet citizens and Soviet Government as they suspect an agreement between the latter and Japanese Government whereby Japan will receive Changchun-Harbin branch of the Chinese Eastern Railway and Soviet Government receive financial aid from Japan and compensation in North Manchuria. This may in part be true.

4. Russian eyewitness states he saw young Chinese throw bomb into Japanese Consulate last night.

5. A meeting of the interested consular service will be held this evening to discuss local situation.”

JOHNSON

793.94/1836 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, September 23, 1931—5 p. m.

[Received September 23—5:53 a. m.]

159. The Vice Minister for Foreign Affairs told me today that the total of Japanese troops in Manchuria was less than 15,000 and within the number allowed as railway guards by treaty. The only places occupied outside the railway zone were Mukden and Kirin. In both places the object was to disarm Chinese who had assembled there.

The troops have been withdrawn from Kirin and would be from Mukden as soon as the civil authorities were prepared to take it over.

It seems that T. V. Soong personally made a proposal to the Japanese Minister to suggest a joint Chinese-Japanese commission to investigate the points at issue. This was acceptable to Japan, but the Vice Minister told me that Soong had lost his early enthusiasm and was not supporting the plan with his colleagues at Nanking. He added that the occupation in any case would not necessarily depend upon a solution of all points at issue.

The British Ambassador tells me that Baron Shidehara⁴⁵ gave him the same information.

Repeated to Peiping.

NEVILLE

793.94/1853½

*Memorandum of Trans-Atlantic Telephone Conversation*⁴⁶

SECRETARY: Is this Mr. Davis?

DAVIS: Yes, Mr. Secretary. I have put in a call for the President. I called on the Chairman of the Council and talked with him. I prepared a cable to the President, promising to call him. I did finish my work on the Financial Committee Monday and he asked me to stay here yesterday and today on this Chinese-Japanese situation. I know a lot of these men and I want to speak to them about that.

SECRETARY: Tell me what the nature [is?]. I have not the slightest objection to your telling me what you find there.

DAVIS: I never in my entire life have seen a situation which I think is so loaded with dynamite and where there is such great opportunity to do something perfectly wonderful. These men here in the Council are trying to battle with the situation. The reports are most alarming. Japan has gone down to the wall and here they look upon it as a conflict between Shidehara and the military clique in Japan.

SECRETARY: I understand that.

DAVIS: I understand you have all the details of this thing. Massigli, who is representing France on the Council came to me and he said there is only one way that I can see to stop Japan now to help overcome the military clique and that would be for the United States to take a very dramatic step here and to come and sit on the Council of the League and help compose this thing. I have talked to Hugh Wilson and they all feel that it would really solve the situation. Here is what I want to do. In disarmament one of the difficulties is how to get a formula on trading with the aggressor which would

⁴⁵ Baron Kijuro Shidehara, Japanese Minister for Foreign Affairs.

⁴⁶ Between Mr. Stimson in Washington and Mr. Norman H. Davis and Mr. Hugh R. Wilson in Geneva, September 23, 1931, 11:20 a. m.

satisfy us and satisfy the other people. This has been very difficult. In getting a formula in the future, some sort of machinery is going to be necessary and I cannot imagine in a crisis of this kind where the Kellogg-Briand Pact has been violated and particularly where the Nine Power Treaty in China is involved (? a better opportunity than) for us to accept an invitation to work with a committee and sit at the Council. Of course, they are talking about your going on a committee. I think it would be the most dramatic thing. I think it would save disarmament and if you do not do it there is no use of holding the disarmament conference, in my judgment. I could not resist the temptation of doing anything I could to be helpful in any possible way.

SECRETARY: I appreciate the seriousness of the situation and I am now in conference on the telegrams coming in this morning, trying to work out the situation, but as you say it seems to be an issue between the peaceful civil elements of the government and the military, and one of the things that is to be avoided is the excitement of national feeling behind the military elements in Japan. We are trying to work out a way by which we can show our cooperation and sympathy with what the League is trying to do and yet not obscure⁴⁷

DAVIS: It is a very old thing. It seems to me that it is an opportunity to solve this.

SECRETARY: I know something about this committee of investigation. They have suggested a committee of investigation. I think they have followed a false analogy there. I suggested two years ago a committee of investigation but of a different type.⁴⁸ I think to try to impose a committee of investigation consisting of military officers upon Japan in the way that the telegram suggested would excite——

DAVIS: I think the United States should throw the weight of its influence by joining the Council in proposing this investigation. That is what they all speak of. I talked to Grandi⁴⁹ and . . .⁵⁰ last night. They say that Great Britain and France feel that the only way to combat it is to get the Japanese to agree to it.

SECRETARY: I was very much afraid of the kind of proposition they are submitting for an investigating committee by the outside nations to investigate Japan. What has become of that proposal?

DAVIS: It was a committee appointed by the Council that the United States would join.

⁴⁷ Apparent interruption or poor telephone connection at this point.

⁴⁸ In dispute between China and the Soviet Union; see *Foreign Relations*, 1929, vol. II, pp. 186 ff., especially pp. 242-244.

⁴⁹ Dino Grandi, Italian representative on the Council of the League of Nations.

⁵⁰ Blank in original memorandum.

SECRETARY: I think that would be a mistake. Two years ago I, in the case of China and Russia, suggested an investigating committee of neutrals appointed by the two parties involved. That is an entirely different situation. That avoids the danger of exciting resentment on the part of the two parties involved or either of them. I think this one is a mistake in the form that they have taken and I think it would do more harm than good. I think it would arouse all the national spirit of Japan behind their military people who have gone off on this expedition.

DAVIS: Hugh Wilson has just come in.

SECRETARY: I have been trying to get him all the morning.

DAVIS: I am doing a little irregular thing here. I started this by really putting in a call for the President.

SECRETARY: I have been at work on this here already under the treaties in which my country is a party and I am doing the best I can, but it is a ticklish situation on which I want all the light I can get.

DAVIS: I knew you were working with it and would understand the spirit under which I am calling.

SECRETARY: I have been in conference with my people here in the Department all morning to determine how to show our sympathy with what the League is doing and carry on ourselves.

WILSON: Hello, Mr. Secretary. There are some further developments. The small committee of the big powers is meeting. (1) They have requested Drummond to notify me that they have determined to send a committee of investigation to Manchuria. (2) They have determined to send diplomatic notes to Japan and China.

SECRETARY: Are those notes to follow the form which the Council adopted last year?

WILSON: They have not determined the form yet. (3) They want to know whether you will name a representative to sit on the small committee.

SECRETARY: It sounds to me as if they have acted first and then ask us to sit and accept the responsibility for what they have already done.

WILSON: The only thing they will announce this afternoon is the committee of investigation.

SECRETARY: That is the one thing I am most disturbed about because I think they have gone off wrong on the character of the committee and the source of its powers. Two years ago in the China-Russia trouble I suggested a committee of investigation but I very carefully modeled it upon the forms of the committee which we were using in the treaties of conciliation all over the world, and that was a committee to be selected by the two powers involved in the controversy. It was not a committee from the outside imposed upon

those two powers. The present committee, in my opinion, I am afraid will be resented by Japan as an attempt by the outside nations to impose an investigation from without and will ally all of the nationalistic elements in Japan against Shidehara in favor of the military elements which have done this. I think they have gone at it in the wrong way. For instance, they may be following the precedent set in the Greek-Bulgarian case,⁵¹ but that was an entirely different situation. In that case it was the determination of a geographical fact and they could send military officers on the subject to virtually draw a line. Here on the contrary it is a judicial ascertainment of a lot of political causes and I do not think either the method of the choice of the committee or the character of the personnel they suggest is appropriate and I think it would give Japan a very good reason for opposing it.

WILSON: I understand perfectly.

SECRETARY: Under those circumstances I do not think I could dream of authorizing a member to sit on that committee where we would be faced with a *fait accompli* in which we have had no voice or suggestion. It is contrary to the way in which I have been going at it here.

WILSON: The Council is meeting at 6:45. It is now 20 minutes to 6:00 o'clock. Can I tell your views to Drummond before that meeting.

SECRETARY: Yes, you can do that.

CASTLE:⁵² I think you ought to put up your idea very strongly to Drummond immediately on the chance that they might be willing to change the type of the committee.

SECRETARY: I am willing that you put up what I say very strongly and confidentially to Drummond so that he can put it before the committee. I have been at work all the morning here trying to work out a way by which we can assist you without running into your errors. I think they are making some mistakes that I do not want to run into.

WILSON: If it would seem to accord with your line of thought, they will probably call off the Council meeting this afternoon.

SECRETARY: What I was thinking of, subject to the approval of the President with whom I have not yet talked, was to send a cable to the effect that we were in accord with what you have done in the note that you sent me a copy of. That is the one addressed to both China and Japan yesterday, asking them to stop hostilities and as far as possible restore the *status quo*. This question of investigation in oriental matters is a very delicate one. People in the Orient

⁵¹ Settled by the League of Nations on December 14, 1925, in favor of Bulgaria.

⁵² William R. Castle, Jr., Under Secretary of State, was evidently present with the Secretary.

like to work those things out by negotiation between the two parties and one of the things I noticed two years ago is being repeated here. The action by the outside powers has driven China and Japan together. The papers this morning report that Japan is now ready to negotiate with China. That will follow almost always when outside powers take a hand in the Orient, and you must bear that in mind and you do not want to commit yourselves so tight to a method of remedy to which they do not agree. You may end up by making the situation worse than it is now.

WILSON: I think that is sound.

SECRETARY: I am trying to back you up and yet I run into that mistake. Norman Davis asked me whether we could not have an American sit on the Council. That would have the same objection to which their offer to sit on the committee has. The Council has already acted. We would go into something in which we had no voice in the original statement and furthermore it would run into all of the other objections which exist in America about formal official action on the League. My idea is to cooperate in some wider action having its origin in some treaty provision with which we are associated, such as the Kellogg Pact or the Nine Power Pact. In other words, it seems to me that probably the best thing I can do is to express sympathy and approval with their efforts in a form that can be used publicly, and to reserve my technical cooperation to pull them out of trouble if they got into trouble.

WILSON: I am going to see Drummond now. If he asks me to explain this to his colleagues is it all right to do so?

SECRETARY: I think you had better do it privately to Drummond. I do not think you had better speak before the committee. Your appearance there would be misinterpreted.

WILSON: But it is a private meeting.

CASTLE: Even from a private meeting it would leak.

SECRETARY: You better talk to the Secretary General or the leaders privately. I do not think we can accept service on that particular committee, nor can we accept service on the Council, but I am trying to think of a way, if the emergency arises, we can possibly accept on a broader basis. The thing most important, because I think it is a clear mistake, is the character of the investigation that that committee is apparently determined to make. I think that is going to make trouble. I do not want that to get to Japan but you can use it with Drummond.

WILSON: Would you like me to call you back tonight after I talk with Drummond and after the Council meeting?

SECRETARY: Yes. Let them understand you have talked with me about my views on which I have not yet talked to the President.

WILSON: I will call you within about three hours probably.

793.94/1831 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson), at Geneva

[Paraphrase]

WASHINGTON, September 23, 1931—4 p. m.

123. Consulate's 120, September 22, 4 p. m., and 123, September 22, 6 p. m.; your 156, September 22, 11 p. m.

Responding to inquiries which have been formally and informally made concerning the American attitude in this matter, you may first deliver to the President of the League Council the following note: ⁵³

"I have received from the American Minister at Berne the copy of the resolution of the Council of the League of Nations which you transmitted to him."⁵⁴

I have noted the two parts of this resolution and the fact that they have been embodied in a note which you have addressed to the Governments of Japan and China.

I assure you that the Government of the United States is in whole-hearted sympathy with the attitude of the League of Nations as expressed in the Council's resolution and will dispatch to Japan and China notes along similar lines.

I have already urged cessation of hostilities and a withdrawal from the present situation of danger and will continue earnestly to work for the restoration of peace."

For the reasons I gave in my telephone conversation with you, I am much troubled in regard to the proposition of an inquiry committee insofar as I understand it (see your 156 and Consulate's 126). In my opinion, the proposition of creating from the outside an investigation committee for the China-Japan situation will not conduce to Japanese acceptance of our efforts on behalf of a peaceful solution of the situation. I very much fear, on the contrary, that the proposition, by inflaming Japan's nationalistic spirit behind the men leading the militaristic movement in Manchuria, will make more difficult Baron Shidehara's efforts and those of the other members of the Japanese Government who are peacefully disposed toward restoring peace and withdrawing from the existing untenable position. As proposed, the inquiry committee differs widely and radically from an impartial commission which is chosen by both parties in a controversy in accordance with methods already adopted in numerous well-known conciliation treaties. This latter type of inquiry was suggested by me in 1929 in the case of the Soviet Union and China, but this, while much less offensive than the present suggestion to national pride,

⁵³ Quotation not paraphrased.

⁵⁴ See telegram No. 123, September 22, 6 p. m., from the Consul at Geneva, p. 29.

even was opposed by Japan and failed of adoption by Russia and China.

This Government has every desire in its efforts to solve this difficulty to work along lines in harmony with those the League of Nations is following. There is no difference with your view of the facts insofar as such have been communicated to the Department, but it is felt here that the Japanese Foreign Minister, probably together with his Government's civilian members, is earnestly working toward accomplishing a peaceful solution, and this Government is anxious lest their task be made more difficult through the arousing of false national pride. This Government thoroughly appreciates the invitation to sit on the League Council and on the special committee, but thinks that American assistance in the solution probably will be more effective if the United States works along the line to which it has already committed itself, namely, of independent conversations. Beginning Sunday morning, the 20th, the Department has repeatedly had conversations with both the Japanese Ambassador and the Chinese Chargé. As there may be a divergence of views concerning methods, for example such as respecting an investigating committee, it is my feeling that I should retain for this Government a degree of independence of action. In summary, the policy which, in my view, will be most effective for the United States Government under the difficult conditions involved in this case is, first, to urge, by diplomatic means and acting according to any similar methods used by the League of Nations, that Japan and China themselves effect a settlement through direct negotiation; second, in the event this method proves ineffective, making outside action necessary, to favor China and Japan's submitting to machinery set up in the League of Nations Covenant, to which they both are parties and to which China already has appealed and which has already begun action; and, finally, should it develop for any reason that this line is impracticable, to consider the machinery of article 7 of the Washington Nine-Power Treaty of February 6, 1922, or action such as may be practicable under the 1928 Kellogg-Briand Pact.

STIMSON

793.04/1853½

*Memorandum of Trans-Atlantic Telephone Conversation*⁵⁵

WILSON: Hello—Mr. Secretary. I told Drummond of my conversation with you. As a result, the public session of the Council this afternoon was called off and a private session was held. In

⁵⁵ Between Mr. Stimson in Washington and Mr. Hugh B. Wilson in Geneva, September 23, 1931, 4 p. m.

that session it came to light that no Japanese reply has been received to the telegram sent yesterday regarding the investigation committee.

SECRETARY: Have they telegraphed to Japan about an investigation committee?

WILSON: A telegram was sent to Japan yesterday suggesting an investigation committee. The Japanese Delegate said that the Japanese Government will refuse all responsibility for this. Lord Cecil then suggested another form of commission—the Japanese to appoint two neutral members, the Chinese to appoint two neutral members, and the Council to appoint three neutral members. The Japanese Delegate will send a telegram suggesting this to his government.

SECRETARY: Is the Japanese Delegate in favor of it?

WILSON: He did not express any opinion concerning it. Drummond adds that the Council very earnestly hopes for our participation in the work of the special committee. A resolution along the following lines will be presented to the Council at tomorrow's session. The members of the special committee will have authority to seek the collaboration that may be helpful in their deliberation. Drummond says that the special committee will be glad to invite the United States in any form that may be agreeable to us. If you would like to have the invitation based on our interest as signatories either of the Nine Power Treaty or the Kellogg Pact or on the basis of general world interest it would be all right. The only other thing I have to add is this. The latest reports here from a Chinese source are that Japanese forces have gone south of the Great Wall.

I have made no press statement of any kind.

SECRETARY: In the first place, Japan I do not believe will ever accept any investigating committee.

WILSON: Do you think they may accept in the form of Cecil's suggestion?

SECRETARY: No, I do not. I think that is chimerical. I do not think that is open to question and I do not believe in imposing a committee from the outside on Japan for I think that would play right into the hands of the enemies of peace. I have sent you a telegram today.⁵⁷ It is on the wires now and I want to give you the sense of it. In it I am sending an answer to the action of the Council yesterday in their resolution about a note to China and Japan, in which I say I am in hearty sympathy with their action and that we will send a similar note, not an identical note, but a similar note to both parties urging a cessation of the hostilities and a withdrawal from the dangerous position in which they are. The rest of my telegram explains my attitude on the rest of the matters about which you have asked me. In general, my feeling is that the surest road to peace is by diplomatic methods in which we will try to back up any action taken by the

⁵⁷ *Supra*.

League in such matters, to urge a settlement by the Chinese and Japanese themselves through direct negotiation between them. The first road to peace is to urge them to settle it by direct negotiation between China and Japan. In doing that, we will urge that method and co-operate with the League if they are urging it. Then if that method is not effective and if outside action becomes necessary why I think that in view of the fact that the League has the appropriate machinery under Article 11 and that it has already been invoked by China, the League ought to go ahead and that we will lend it all moral support that we can. We cannot participate, of course, in League action but we will make clear that it has our moral support. Then, and only in case that should prove ineffective for any reason, we would come to the other two treaties—the Nine Power Treaty or the Kellogg Pact. In other words, if the action of outside parties is necessary, I think it should be done by the League which is in session and acting now and it has our earnest sympathy and support. But I have made clear in this telegram the reasons for my fear for this outside committee of investigation. That is a word to the wise. I know something about the attitude of mind of those peoples. I have lived among them, and I believe (I want this thoroughly understood) that the Japanese Government, the civilian government, probably—of course we are all embarrassed by lack of evidence—is sincerely trying to settle this matter. I believe they ought to have a chance to do so and I believe that outside action by a lot of attachés or a commission appointed by anybody else would make trouble. I think that ought to be a last resort. Of course if any one of the parties should prove intractable to settlement, then under the machinery of the League the League will have to go its own way in opposition to that party, but as long as there is any chance of the parties settling the matter between themselves I think outside interference will make it more difficult.

WILSON: You understood about the Cecil resolution?

SECRETARY: Yes. But they would prefer negotiation. That is the method of Oriental people. They are not accustomed to judicial inquiry and I would not use that until you were sure you were going to get their opposition anyhow.

WILSON: As long as they are in the state of mind where they will negotiate you want to give them all the opportunities possible and if that fails then the League can go ahead with its own machinery and you will give it moral support.

SECRETARY: Precisely. But I think they should be given every opportunity to do it by direct settlement first. That is for your knowledge. I am making public here the note which I am sending in answer to the President of the Council. I am giving it out this afternoon here, because the President's resolution has already been made public. The cable has gone to you already.

WILSON: Thank you very much.

SECRETARY: That is the situation. I am really afraid of the resolution of inquiry. I wish they would kill it for the present and not mention it.

WILSON: Maybe the Japanese will kill it themselves.

SECRETARY: I think they will, but it will make them feel badly to kill it. You can use your own discretion about telling confidentially the way I feel about this, but I do not want it made public because I think it is subject to misrepresentation. That is the best of my thought on the situation and I think that is the best way out of a very difficult position. Of course, do not have any misunderstanding; if either party proves recalcitrant and takes a position which is clearly in violation of the covenant of either of the two treaties to which America is a party we shall not flinch in our duty. But I very much hope that they will not do that.

WILSON: Thank you very much. That is clear.

793.94/1918

Memorandum by the Secretary of State

[WASHINGTON,] September 23, 1931.

I sent for the Japanese Ambassador and told him that I had received from the Council of the League of Nations, through the American Minister, a copy of the resolution which the Council had adopted in regard to Japan and China yesterday.⁵⁸ I told him that I was sending a reply to this resolution and I handed him a copy of it in the form annexed.⁵⁹ I said I had just sent it to Geneva and he then read it carefully and thanked me for giving him such prompt notice of it.

H[ENRY] L. S[TIMSON]

793.94/1855: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 23, 1931—8 p. m.

[Received 10: 13 p. m.]

133. Consulate's 131, September 23, 2 p. m. At the very last moment the decision was taken to hold in private the Council meeting this evening.

The following is the text of a letter addressed this afternoon by the Japanese representative on the Council to the Secretary General in

⁵⁸ See telegram No. 123, September 22, 6 p. m., from the Consul at Geneva, p. 29.

⁵⁹ See telegram No. 123, September 23, 4 p. m., to the Minister in Switzerland, p. 48.

explanation and defense of the Japanese position. He requested that this letter be communicated to the President and members of the Council and drew attention to the fact that the entire information covering the period from September 18 to 21 was derived from official sources.

"On the night of September 18th, about 10:30 p. m., a Chinese detachment of some 350 men blew up part of the main line of the South Manchuria Railway north of Mukden at a point southwest of the Chinese barracks at Peitaying. This detachment led by its officers was proceeding in the direction of Lungkouchen, between Peitaying and Mukden, when it was discovered by a railway guard patrol which endeavored to stop it but, failing, was obliged to open fire. A battle ensued in which a company of the Japanese garrison of Mukden took part.

In view of the gravity of the possible consequences of such an incident in present circumstances and the disproportion between the Chinese and Japanese forces, the Japanese headquarters at Mukden promptly took such steps as it considered indispensable. At 2:30 a. m. it had the Chinese barracks occupied and the troops who were stationed [there] disarmed; subsequently the open town, the official buildings and the arsenal were occupied.

Immediately upon receiving notice of the incident the troops stationed at Tiehling, Kaiyuan, Ssupingkai and Liaoyang concentrated at Mukden; and the Kwantung staff proceeded in haste to that town at noon on September 19th.

On receiving news of the clash the guards stationed along the South Manchuria Railway took the precautions to protect the track and the safety of Japanese nationals and to deal with any possible attack by the large Chinese forces in Mukden.

At Changchun a Japanese was sent on September 19 to the Chinese troops stationed in the neighborhood of the town at Kwangchengtze and Nauling, to arrange for their disarmament, but the Chinese offered strong resistance to the Japanese troops who had 60 killed and 96 wounded. The garrison of Changchun however was disarmed without incident about noon on the same day.

On the 20th similar measures were taken at Antung, Fenghuangcheng and Yingkow; various strategic points in the neighborhood of the railway zone were occupied. The customs offices at Antung, Yingkow, etc., were carefully respected.

In the places mentioned, order is being maintained in cooperation with the Chinese, and at Mukden the Chinese municipal police are continuing to discharge their duties under the direction of the Japanese authorities.

In places outside the railway zone the Japanese consuls have applied to the local authorities to provide for the protection of our nationals. As, however, Japanese subjects have suffered serious maltreatment at Kirin, the Japanese detachment has proceeded to that town but has [orders] to return to its garrison in a day or two as soon as calm has been restored.

We have been able so far to ensure the complete safety of foreigners resident in the area under Japanese control. In view, however, of the disquieting situation caused by the presence of undisciplined bands and the attitude of the population in looser [*certain*] areas, the small

forces at our disposal have not been thought sufficient to provide effective protection for the railway lines and for Japanese and foreign residents and the Thirty Ninth Army Corps (4,000 men) was sent to Manchuria from Korea on September 21st.[""]

[Paraphrase.] Confidential information given me is that League members who are not represented on the Council plan to pass a resolution, probably when the Assembly holds its next plenary session, to indorse the Council's action. This plan is intended to be a gesture of support for the Council and of emphasis of the world-wide concern which is felt. [End paraphrase.]

GILBERT

793.94/1939

Memorandum by Mr. Ransford S. Miller of the Division of Far Eastern Affairs

[WASHINGTON,] September 23, 1931.

Mr. Kato, of the Japanese Embassy, called with a copy of the Japanese text of a telegram from the Japanese Foreign Office which Mr. Kato said was the first full account of the Manchurian situation that the Embassy had received.

Mr. Kato gave a running translation, in English, of the Japanese text, the contents of which appeared to be identical with the text of the letter addressed by the Japanese representative on the Council to the Secretary General of the League of Nations, as reported in Mr. Gilbert's telegram No. 133, of September 23, 8 p. m.

Mr. Kato intimated that he felt that the Japanese Minister for Foreign Affairs was having a very hard time in a very difficult situation and that the sympathies of the Embassy here were with Baron Shidehara in the circumstances in which he found himself placed.

Mr. Kato added that Ambassador Debuchi would delay his intended departure for Japan for a couple of weeks.

793.94/1942

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*⁶¹

[NANKING,] September 23, 1931.

With reference to the charge made by Japanese that our soldiers attempted to destroy a bridge of the South Manchurian Railway, the Superintendent's office of the Peining (Peiping-Mukden) Railway

⁶¹ Copy of telegram handed by the Chinese Chargé to the Secretary of State, September 23.

reports that on the night of the 18th Japanese troops started the trouble by blowing up the Liu River bridge of the South Manchurian Railway and afterwards scattered dead bodies of our soldiers nearby so as to fasten the blame upon us for the destruction of the bridge.

The fact is that before destroying the bridge the Japanese had built a siding around this spot so that there would be no interruption in the running of trains. There was on the bridge a signal tower from which a strict watch was always kept.

This mode of manufacturing evidence defeats its own ends.

793.94/1857 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 24, 1931—8 a. m.
[Received September 24—6:38 a. m.]

640. Reuter report from Nanking, 23d :

“Government spokesman here characterizes as groundless reports from Tokyo that China had proposed a joint Sino-Japanese commission to investigate the Manchurian affair and Mr. Yoshizawa’s similar allegation at Geneva.

This afternoon Marshal Chang Hsueh-liang telegraphed to Generalissimo Chiang Kai-shek denying reports of Soviet troop movements on the border but adding that the Soviet Consul at Harbin had made representations to Japanese Consul there that Japanese military movements were hindering operation of Chinese Eastern Railway.

News of League’s action regarding Manchuria was very welcome here and had calming effect where anti-Japanese feeling was threatening to get out of hand. Mass meeting here this morning of 100,000 people demanded that Government should immediately mobilize.

Japanese community here was evacuated to Shanghai this morning.”

JOHNSON

793.94/1922

Memorandum by the Secretary of State

[WASHINGTON,] September 24, 1931.

The Japanese Ambassador called today, evidently due to a misunderstanding, to ask whether I had finished my note to Japan and to China. I told him that I had not yet finished the note. It was left so that if I finished it this morning I was to let him know by telephone before one o’clock, and if I did not it would go over until tomorrow morning, as I found that he was rather anxious to get out of town for the afternoon.

The Ambassador brought with him a clipping of the article of Hugh Byas in the *New York Times* of this morning and pointed out

Byas' statement denying that the Japanese had begun any advance on Harbin. The Ambassador said he had officially confirmed this denial; that no such advance had been made. In reference to the occupation of Kirin, he said that only a few soldiers were left there; that the rest of them had withdrawn. He said he thought that the Japanese Government were beginning to withdraw their forces and he hoped to have definite news for me very soon.

H[ENRY] L. S[TIMSON]

793.94/1924

Memorandum by the Secretary of State

[WASHINGTON,] September 24, 1931.

During the call of the Japanese Ambassador I told him that I had received word from the Radio Corporation of America as to the destruction at Mukden on September 19th of the radio station which they had built for the Chinese Government. I explained to him that the Radio Corporation regarded this as an important link in their chain of communication with the Orient and that its destruction had made a very unfortunate impression to the effect that the Japanese were trying to cut off communication with Manchuria. I told him that until that radio station was replaced this unfortunate suspicion would be likely to continue. He told me he would communicate with his government and let me know.

H[ENRY] L. S[TIMSON]

793.94/1863 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 24, 1931—10 a. m.

[Received 1:30 p. m.]

642. Following from American Consul General at Mukden:

"September 23, 2 p. m. Japanese reinforcements from Korea went through Mukden yesterday afternoon for Changchun where the chief concentration of reinforcements troops is taking place. A traveler reports seeing Japanese police at the first Chinese Eastern Railway station north of Changchun. It is believed that Japanese forces are preparing to move on Harbin. According to a report, reliable, Cheng-chiatun, Tungliao and Taonan have been occupied by Japanese forces. Japanese aircraft flew over Hsinmin and Taipingshan yesterday and it is reported dropped bombs on barracks at latter place. Also reliably informed that only one body of troops from Korea has been sent to Chientao region. On the Mukden-Kirin Railway only Japanese military trains are operating."

JOHNSON

793.94/1860 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

GENEVA, September 24, 1931—1 p. m.
[Received September 24—11:30 a. m.]

159. Department's 123, September 23, 4 p. m. Great satisfaction was caused by the message to the Council President.

I have talked about your ideas to Sir Eric Drummond. He desires me particularly to make clear to you that as proposed by Lord Cecil in the secret Council meeting last night (which I mentioned by telephone to you last night) the contemplated commission, with Japan and China to name two neutrals each and the Council to name three, is intended merely as a fact-finding body. So contradictory have been the reports received regarding the numbers and present locations of Japanese troops that the Council has felt it essential to obtain the actual facts in this connection. Most narrow terms of reference would be given the commission. Drummond asks whether you would agree to an American member of the commission being nominated in the event of the proposal being accepted by Japan.

The correspondent of the *New York Times* obtained somewhere a fairly correct summary of my discussion last night with Drummond, and this morning I cautioned Drummond lest such publicity injure the confidential relations between him and you, so desirable now in this crisis. He will stress in the small committee the need to preserve the confidential nature of any communication which I may informally make to him respecting your views.

WILSON

793.94/1865 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

[Paraphrase]

LONDON, September 24, 1931—4 p. m.
[Received September 24—12:35 p. m.]

385. I called on Lord Reading⁶² in order to get information on the Manchurian situation for you. He said that at Lord Cecil's suggestion by telephone from Geneva he cabled a message to the Japanese Government to supplement the communication already dispatched by the League; he said that France, Germany, and Italy had done likewise. Reading's own impression, based upon official information, is that the situation now is less disquieting, the disturbance being at

⁶² British Secretary of State for Foreign Affairs.

least kept local. This he qualified with the statement that his news was somewhat conflicting and therefore could not serve as a basis for too firm an opinion. Regarding the position of the Soviet Union, he thought they looked upon the situation as local, and this was natural, since Japan still has, despite the reinforcement of its Army by the last 4,000 men, a smaller number of troops in Manchuria than is allowed by treaty. However, Reading also stated that in his judgment the Soviet Union would unquestionably be concerned if the continued activities of even this Japanese force, reportedly accompanied by a movement of Japanese ships to a strategic point, described by the Japanese as merely coincidental, should indicate Japanese pursuance of a plan of conquest. While it had been intimated to Reading that there might possibly be some secret understanding between the Japanese and the Soviets concerning a joint division and occupation of Manchuria, he regarded this idea as unfounded. In case the press despatch published this morning proves correct in regard to the withdrawal of Japanese troops and the alleged attitude of Japan, Reading is not particularly apprehensive of the situation.

DAWES

793.94/1868c : Telegram

*The Secretary of State to the Minister in China (Johnson)*⁶³

WASHINGTON, September 24, 1931—4 p. m.

340. Please communicate to the Minister for Foreign Affairs immediately as a note, the identical text of which will be communicated by the American Chargé to Japan to the Japanese Minister for Foreign Affairs, the following:

"The Government and people of the United States have observed with regret and with great concern events of the past few days in Manchuria. In view of the sincere desire of the people of this country that principles and methods of peace shall prevail in international relations, and of the existence of treaties, to several of which the United States is a party, the provisions of which are intended to regulate the adjustment of controversies between nations without resort to use of force, the American Government feels warranted in expressing to the Chinese and the Japanese Governments its hope that they will cause their military forces to refrain from any further hostilities, will so dispose respectively of their armed forces as to satisfy the requirements of international law and international agreements, and will refrain from activities which may prejudice the attainment by amicable methods of an adjustment of their differences."

STIMSON

⁶³ The same, *mutatis mutandis*, to the Chargé in Japan (No. 167), *Foreign Relations*, Japan, 1931-1941, vol. 1, p. 9.

793.94/1868e : Telegram

*The Secretary of State to the Minister in Switzerland (Wilson),
at Geneva*

WASHINGTON, September 24, 1931—4 p. m.

126. Department's 123, September 23, 4 p. m. The following identic note has been telegraphed to the Embassy at Tokyo and to the Legation at Peiping for presentation to the Japanese and to the Chinese Governments respectively. The text has also been handed to the Japanese Ambassador and to the Chinese Chargé d'Affaires in Washington.

[Here follows text quoted in telegram No. 340, *supra*.]

You may so inform the President of the Council.

STIMSON

793.94/1875 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, September 24, 1931—6 p. m.

[Received September 24—5:40 p. m.]

137. Consulate's 133, September 23, 8 p. m. It is learned from a reliable source that at the private Council meeting held yesterday at 7 p. m. the following took place:

1. The Japanese representative was queried as to whether he had any information to give in regard to the suggested sending of observers to Manchuria.

2. He answered that he had not.

3. This Japanese reply was declared to be disappointing to the Chinese representative, who offered a new proposal authorizing the Council to name certain states to which the Chinese Government might apply for appointment of observers who would report to the League.

4. In reply the Japanese representative stated his Government could not take responsibility for such a proposal.

5. Adjournment of the discussion was suggested by Lord Cecil in the hope that a Japanese counterproposal might be received.

6. The Japanese representative assented to adjournment.

7. The Chinese representative insisted upon immediate treatment of the question of sending observers.

8. Lord Cecil appealed to the Japanese representative to communicate with his Government by telegram and said it was his hope that Tokyo would agree, since the question of appointing observers was considered by the League as most urgent.

9. It was suggested further by Cecil that such a mission might perhaps be composed of two neutral members appointed by Japan, two by China, and three by the Council.

10. The Japanese representative inquired whether this proposal was identical with the "observer idea".

11. In reply Cecil said the proposal was not "to observe" but instead "to report" to the League.

12. While not saying he would support Cecil's proposal, the Japanese representative agreed to telegraph his Government in this sense.

13. The arrangement is still open to discussion.

14. It was stated by the Chinese representative that the Japanese have advanced within the Great Wall.

15. To this the Japanese representative responded that certain strategic points had been occupied, though he was not informed of any "military advances" south of the Wall.

GILBERT

793.94/1860 : Telegram

*The Secretary of State to the Minister in Switzerland (Wilson),
at Geneva*

[Paraphrase]

WASHINGTON, September 24, 1931—6 p. m.

127. Your 159, September 24, 1 p. m. The day's news seems to confirm the Department's impression that the Government at Tokyo is honestly trying to extricate itself from a position which is impossible and that in this process it should not be pressed. My chief reason for fearing the suggested committee of investigation has been that it would obstruct the civil elements of the Tokyo Government and would play into the hands of the Japanese military element. To me these dangers appear to outweigh any good which such a committee's appointment would do at the present moment, though later on it may be useful. The original idea of a committee to be imposed entirely by outside nations appeared to me as clearly impossible and dangerous. The proposal now is better. In my personal opinion, the form least objectionable to both Japan and China would be a commission which they themselves would appoint. Until some proposal has actually been accepted by both the Chinese and Japanese, I should prefer not deciding whether to permit American membership. I fear otherwise that American membership will be used by the League as a threat to Japan, and this would not, in my opinion, produce the results anticipated by the League but would do exactly the reverse and, furthermore, would destroy future American usefulness as a mediator should the League not succeed. Please inform Drummond confidentially

that it is believed best here not to decide about American membership pending agreement by Japan and China to the proposal.

STIMSON

793.94/1870 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 24, 1931—7 p. m.

[Received September 24—4:47 p. m.]

138. Last paragraph Consulate's 133, September 23, 8 p. m. The following is the provisional translation obtained from the Secretariat of a communication made orally this morning before a plenary meeting of the Assembly by Lerroux, President of the Council.

"As presidentin [*presiding?*] officer of the Council I desire to make a communication to the Assembly. The question of the difference between China and Japan is under consideration by the Council. Consultations with the representatives on the Council of China and Japan are taking place and we hope they will lead to a satisfactory conclusion. The Council hopes to be able to make a statement to the Assembly as soon as circumstances permit. Meanwhile, the Council has asked me to assure the Assembly that it is devoting to this question all the time and all the attention which is required in the interest of peace and the respect that the Council owes to the two parties to the dispute."

Immediately afterwards Titulesco,⁶⁴ the President of the Assembly, made a declaration of which the following is a provisional translation :

"I believe I can make a statement which for the present will enable us not to have a discussion. It is evident that as long as the dispute has not been brought before this Assembly, it is for the Council to discuss points of fact and endeavor to find the means for conciliation. However, in circumstances like these it is above all necessary that the League of Nations should be able to rely on the approval and help of public opinion in all countries. This approval and help will certainly be forthcoming if our action is in conformity with what is expected of us.

From this point of view it is not enough for the Council to sit permanently (as much as possible in public meetings) until the maintenance of peace is assured. The Assembly must also not finish its labors without having had an opportunity of showing the interest which all the members of our League feel for the success of an action so vital for our institution. We, therefore, hope that the Council will before the end of our session be good enough to make a new communication upon this affair so that the Assembly may express its opinion on the dispute."

I have learned on good authority above procedure was purposely adopted instead of passing a resolution as forecast in the Consulate's

⁶⁴ Representing Rumania.

telegram referred to in order to avoid a discussion in the Assembly on the question at this juncture.

GILBERT

793.94/1869 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

GENEVA, September 24, 1931—9 p. m.

[Received September 24—9 p. m.]

161. Drummond has just handed me the answer of the President of the Council dated today in reply to your message contained in your 123, September 23, 4 p. m. The text was adopted at a full private meeting of the Council just terminated.

“My Dear Mr. Wilson: On behalf of the President of the Council of the League of Nations I beg leave to acknowledge the receipt of your letter of the 24th September enclosing a telegram addressed to [me] in regard to the appeal from the Chinese Government under article 11 of the Covenant of the League of Nations. May I ask you [to] transmit to the Secretary of State its appreciation of the friendly answer which he was good enough to make in regard to the situation which has unhappily arisen between two highly respected members of the family of nations, China and Japan. The Council is gratified to note that the Government of the United States is in wholehearted sympathy with the attitude of the League of Nations as expressed in the Council resolution, and that it will despatch to Japan and China, in addition to previous communications, notes on lines similar to those followed by the Council.

The Council has no preconceived method for solving the difficulties which have arisen; no procedure or formula to which it is irrevocably attached [*bound?*] other than its obligations to ‘take action that may be deemed wise and effectual to safeguard the peace of nations.’

To this end the Council will gladly continue to keep the United States Government informed of any action it may take or any information it may secure, and ventures to hope that that Government will also be disposed to communicate with it. The Council feels confident that, irrespective of any individual effort which any government may deem it desirable to make, it is by the continuance of common endeavor that a successful result is most likely to be achieved. The efforts which are now being made here will be continued by the Council in such form as circumstances may require.

Believe me, my dear Mr. Wilson,

Yours very sincerely,

(signed) A. Lerroux
[Acting?] President of the Council
of the League of Nations[”]

WILSON

793.94/1890

Memorandum by the Under Secretary of State (Castle) of a Conversation With the British Chargé (Osborne), September 24, 1931

[WASHINGTON,] September 25, 1931.

Mr. Osborne came to the Department at my request so that I could tell him our attitude toward the Manchurian situation. He told me that he had been instructed by his Government to call and ask about it in any case.

I told him that, of course, we wanted to be of any possible assistance to the League of Nations and certainly did not want to interfere with anything they were doing. I pointed out, however, that it was possible that Lord Robert Cecil, who seemed to be representing Great Britain, being a man who was always in favor of international action, might have neglected to consider oriental psychology in his proposal of a commission of investigation. I told him that we felt that such a commission might be of great importance at the proper time, but that we were very much opposed to any move which might inflame the nationalistic spirit of Japan and unite the people of the country behind the militaristic element rather than the civilian element. I told him that I thought we ought all of us to support Baron Shidehara to the limit. Mr. Osborne said that he quite understood this and that it seemed to him that our attitude was entirely wise. I told him also that we felt, knowing the attitude of the Japanese and Chinese, that if there could be direct conversations this would be undoubtedly the wisest method of settlement, but if this were not possible or if these conversations amounted to nothing we should hope that the matter might be arranged under the terms of Article Eleven and later articles of the Covenant of the League since both Japan and China, in signing the Covenant, had agreed to accept the jurisdiction implied. I told Mr. Osborne that we also felt that the matter should be continued by the League since the League had begun already, but that even if this were not successful there remained the specific treaties of 1923 [1922] and the Kellogg Pact. I told him, however, that we hoped and believed that the Japanese were already trying to get themselves out of an uncomfortable position.

W[ILLIAM] R. C[ASTLE,] JR.

793.94/1938

Memorandum by the Under Secretary of State (Castle) of a Conversation With the Japanese Ambassador (Debuchi), September 24, 1931

[WASHINGTON,] September 25, 1931.

The Japanese Ambassador called to say that he had had a talk with the Secretary about the Manchurian situation and wanted to have a really long talk with me about it the next day. He said that there was naturally a great deal of misunderstanding, which I admitted, but we did not go into any full discussion of the matter. He said that, although it was true that the military authorities in Mukden had appointed a Japanese as mayor, the Japanese Government had promptly disavowed this action. He said also that Japanese troops had gone to Kirin, but that they had immediately been withdrawn.

W[ILLIAM] R. C[ASTLE,] JR.

793.94/1872 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, September 25, 1931—10 a. m.

[Received September 25—3:30 a. m.]

68. A responsible official of the Chinese Foreign Office has inquired whether I have any confirmation of Associated Press despatch to the effect that the Secretary of State has told the Japanese Ambassador that, in the light of the information received by the State Department, serious responsibility must rest with Japan for the present developments in Manchuria. Please telegraph any details I may be authorized to communicate to the Chinese Ministry of Foreign Affairs.

Legation informed.

PECK

793.94/1884 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 25, 1931—3 p. m.

[Received September 25—2 p. m.]

140. Consulate's 127, September 22, 9 p. m. The following is the translation of a letter dated September 24 addressed to [by] the Japanese representative on the Council to the President of the Council:

"By order of my Government I have the honor to bring to the knowledge of Your Excellency my Government's reply to the tele-

gram of September 22 which Your Excellency was good enough to send to it.

1. In regard to the first point mentioned in the message, Japanese troops, since the beginning of the present events have taken care to act only within the limits necessary to insure their own security, the protection of the railway and the security of Japanese nationals. The Government of Japan has firmly pursued the aim of preventing the extension of the incident and the aggravation of the situation; it is profoundly anxious to settle this affair by pacific means, through negotiations between the two countries, as rapidly as possible and it has the definite intention of not abandoning this line of conduct.

2. As to the second point of the message the Government of Japan wishes to declare that it has withdrawn most of its forces into the railway zone and that they are concentrated [there]. Outside of the said zone some few troops only remain quartered as a measure of precaution in the city of Mukden as well as at Kirin and a small number of soldiers have been stationed at certain points, these measures not constituting military occupation. The withdrawal of its forces is being carried out to the greatest extent which the maintenance of the security of Japanese nationals and the protection of the railway at present permit. The Government of Japan in proposing to withdraw its troops into the railway zone in proportion as the situation ameliorates, confidently hopes that the Council will trust in the sincerity of its attitude in this matter."

GILBERT

793.94/1881 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

GENEVA, September 25, 1931—4 p. m.
[Received September 25—11:45 a. m.]

165. The Chinese Minister in Great Britain this afternoon called to ask what I could tell him concerning your attitude on Manchuria. I replied to Sze that if the Japanese representative asked me the same question I should be obliged to reply likewise, namely, that any attempt by me to interpret the views of the Secretary of State to either the Chinese or the Japanese might, I feared, create confusion, and I was discussing the Manchurian matter only with Drummond and not even with any Council member.

I feel that, with the conflicting and confused reports in Geneva, any other attitude of mine would be dangerous. I shall hold to this course unless you entertain contrary views.

793.94/1874 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, September 25, 1931—7 p. m.

[Received September 25—9:35 a. m.]

161. Department's 167, September 24, 4 p. m.⁶⁶ I delivered the note to the Minister for Foreign Affairs this afternoon. He read it and said that he supposed it was sent in support of the action of the Council of the League of Nations. I replied that presumably it was, judging from prior instructions which I had received. He then asked me if it had been published to which I replied that I did not know. He said that he would much prefer not to have it published as a certain section of the public might misunderstand. He said that he appreciated the very considerate and friendly attitude of the Secretary of State.

He then referred to the statement issued after the extraordinary Cabinet meeting of September 24, which he told me had been sent to the Japanese Embassy in Washington and which the Department probably has received.⁶⁷ He said that this statement summarized the situation and that he had nothing to add.

He said that he had replied to the League communication stating that Japan was refraining from any act which would tend to aggravate the situation or prejudice the peaceful settlement of it and that Japan was prepared to collaborate with the Chinese to seek adequate means whereby troops might be withdrawn. He said that there had been proposals for an independent commission to investigate the situation but that he did not see any need for it as he thought that Japan and China could settle amicably matters at issue between them.

I spoke to the British and the French Ambassadors today, the former stated that he had received instructions to support the League resolutions and that he would leave a memorandum to that effect with the Foreign Minister. The French Ambassador stated that he had received no special instructions to press the Japanese Government to abide by the League resolutions but that he was seeing the Foreign Minister and would "talk about them" by which I understood him to mean support them, as he was sure they were in accord with his Government's views.

I asked him whether the Chinese had approached him with any proposals. He said that they had not made any concrete proposal for settling the questions at issue; that the Soong proposal had been withdrawn before it would [could?] be formally made, and that as China had appealed to the League he was simply awaiting further developments.

⁶⁶ See footnote 63, p. 58.

⁶⁷ Copy received September 25; for text, see *Foreign Relations, Japan, 1931-1941*, vol. I, p. 11.

I then asked him whether the Soviets had manifested any uneasiness in connection with the matter. He said that they had not, except to inquire about the Chinese Eastern Railway. He said that the telegraph service to Moscow was very bad and that telegrams sometimes took 48 hours. The Japanese Ambassador had been asked whether it was true that the Japanese had seized the southern terminus of the Chinese Eastern and were about to occupy Harbin. He had assured the Soviet authorities that the Japanese had no intention of doing either. The Commissar of Foreign Affairs had then said that he had no interest in the matter as it seemed that the situation resembled the Russo-Chinese situation of 1929, when Japan had maintained a strictly neutral attitude.

NEVILLE

793.94/2113

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] September 25, 1931.

The Japanese Ambassador told me that he had just received a communication from his Government as to the latest developments in Manchuria. He said that the Japanese were trying to draw in their lines, in order to liquidate the present unfortunate situation; that it was also obvious that the Premier and Baron Shidehara had now got control of the situation, at least to a very large extent. He said that it was the feeling of the Japanese Government that the Chinese were consciously making a great deal out of the situation and were enormously exaggerating. This they believe to be due largely to political conditions, Chiang Kai Shek being himself in a very dangerous position and wishing to consolidate Chinese opinion back of them by taking a very belligerent attitude. The Ambassador said that it is very curious that violent anti-Japanese feeling seems to be centered in Nanking, that it is much less violent in Canton and least violent of all in the territories controlled by Marshal Chang Hsueh Liang.

Mr. Debuchi told me that since the lines of communication with Tokyo seemed now to be better established, owing to the fact, in his opinion, that the civilian elements in the Government have taken charge, he will be able to keep the Department much more closely informed as to the march of events than he has been able to do in the past. He said that the Japanese Government had received the request of the League of Nations for a commission of investigation to go into Manchuria, but that the Government had felt itself unable to accept the suggestion. He said that on this point Baron Shidehara and Baron Yoshizawa were perfectly definite. They feel that such a commission would retard rather than increase the speed with which some-

thing approaching a *status quo ante* can be reached, in that the commission would be exceedingly irritating to the military elements. He does not deny that some kind of a commission might later be necessary if Japan does not fulfill its obligations by withdrawing from an untenable position. On the other hand, he thinks strongly that at the present moment the situation is improving and the very best method of settling the whole matter would be through direct conversations with the Chinese. The Ambassador says that his Government is very grateful to this Government for its sympathetic attitude in the whole matter and hopes that we shall be content to let matters rest for the time being until Japan can prove by actions their good intentions. I told the Ambassador that this was very important, that, so far as we could see, there had been a violation of treaties, possibly without intention, and that neither this Government nor the rest of the world could sit quietly by in a situation as tense as the present, although I personally was only too glad to give the Japanese an opportunity to prove the good faith which I know they have. I pointed out to the Ambassador that the world had for years suspected Japanese intentions in Manchuria and that this made the world attitude more critical than it perhaps would be. For this reason I told him it was clear that the Japanese Government should act as quickly and as openly as possible in the restoration of legal treaty conditions. The Ambassador said that he was sure that his Government fully appreciated this and would so act. He spoke of the despatch of British troops to Shanghai some years ago and our own so-called bombardment of Nanking,⁶⁸ but admitted that this was a different situation than the present in that at that time the question was international and that there could be no claim that we were seeking selfish advantages.

The Ambassador said that now that Baron Shidehara and Baron Wakatsuki⁶⁹ were in control of the situation, he felt that things would improve perhaps more rapidly than we believe possible, but that it remained very important not to complicate matters by the imposition of some outside body for investigation or anything else. I pointed out to him that possibly another reason for prompt action might be that it was necessary within the range of possibilities—if not probabilities—that the Russians might take the attitude that they were friends of China and would help put out the Japanese; that, if anything of the sort happened, it would infinitely complicate the situation. The Ambassador said that his Government was fully aware of this possibility, but that he thought the evident determination of the Japanese to withdraw its forces from advanced positions had already shown the Russians that there was no intention of annexation of South Man-

⁶⁸ For incidents in 1927, see *Foreign Relations*, 1927, vol. xi, pp. 56 ff. and 146 ff.

⁶⁹ Japanese Prime Minister.

churia or of interference with Chinese control. I told him that I hoped most sincerely that his belief as to the facts would prove true and that we might see a steady amelioration in the present dangerous situation.

W. R. CASTLE, JR.

793.94/1903

The Secretary of State to the Chinese Chargé (Yung Kwai)

WASHINGTON, September 25, 1931.

SIR: The receipt is acknowledged of your note of September 21, 1931, in regard to events of the past few days in Manchuria.

You have been informed of the steps already taken by this Government in this matter and I assure you that this subject is continuing to receive most careful consideration.

Accept [etc.]

For the Secretary of State:
W. R. CASTLE, JR.

793.94/1872: Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, September 25, 1931—7 p. m.

79. Your 68, September 25, 10 a. m. What the Secretary said, on the afternoon of September 22, to the Japanese Ambassador⁷⁰ in this connection was:

"It would seem that the responsibility for determining the course of events with regard to the liquidating of this situation rests largely upon Japan, for the simple reason that Japanese armed forces have seized and are exercising *de facto* control in South Manchuria."

You may discreetly inform the inquirer by oral paraphrase.

STIMSON

794.94/2356

Press Release Issued by the Chinese Ministry of Foreign Affairs⁷¹

[Translation]

Unofficial

[NANKING,] September 25, 1931.

The Ministry of Foreign Affairs issued a formal communiqué yesterday stating:

"The other day, when the Japanese Minister of War interviewed press reporters, he stated that according to the provisions of Sino-

⁷⁰ For memorandum of conversation in full, see *Foreign Relations, Japan, 1931-1941*, vol. I, pp. 5-8.

⁷¹ Copy transmitted to the Department by the Consul General at Nanking in his despatch No. D-114, October 1; received October 23.

Japanese treaties, Japan may send 15 soldiers to each kilometer of the South Manchuria Railway. The total number of soldiers Japan may send would therefore be 16,500 for the whole railway. In fact, only 15,000 Japanese soldiers have been despatched to that railway. Judging from this, Japan intends to misrepresent facts which other nations have not been fully aware of.

"The strength of Japanese troops now in Manchuria has exceeded 50,000 and the Japanese parliament has appropriated 2,200 Yen per month for these troops, excluding emergency expenditures. Considering how many Chinese citizens have been killed, how vast an area has been occupied, how many cities have been taken and how much property seized, can there be any reason to support the statement that the activities of Japanese troops are in accordance with the provisions of existing treaties?"

"What the Japanese Minister of War said might be based on Article 1 of the supplementary treaty of the Russo-Japanese Treaty of 1905."⁷² However, none of the Sino-Japanese treaties has ever recognized such a provision. Article 2 of the Supplementary Treaty signed during 1905 concerning Manchuria⁷³ provides that 'Japanese Government promises to take the same action if Russia promises to withdraw troops which have been stationed to protect the railway.' Russian troops on the Chinese Eastern Railway had been withdrawn long ago. At present the Railway is protected by Chinese troops only. The stationing of Japanese troops on the South Manchuria Railway has absolutely no foundation in treaties. Whatever excuse Japan may have in the matter, there is no reason why her troops should occupy our territory, kill our people and seize our properties."

793.94/1901 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 26, 1931—9 a. m.

[Received 4:50 p. m.]

141. The following are certain aspects of the picture respecting the Sino-Japanese question which may be of interest in evaluating the situation in Geneva.

1. In line with a traditional Geneva attitude there is a strong feeling on the part of the small states that this question is a test of League efficacy in dealing with a great power and that a failure in this instance would be setting a precedent which would substantially weaken the League's influence in the future and discredit conciliatory and security measures in general with a concomitant effect on disarmament. This is responsible for much of the agitation in Geneva that "something be done". To prevent a discussion in the Assembly which would have

⁷² For text of Russo-Japanese treaty of peace and additional articles, signed at Portsmouth September 5, 1905, see *Foreign Relations*, 1906, pp. 824 and 827.

⁷³ For text of the supplementary agreement between China and Japan relative to Manchuria, signed at Peking December 22, 1905, see *ibid.*, 1906, pt. 2, p. 997.

had this sentiment as a background, recourse was had to a restriction of Assembly action as reported in Consulate's 138, September 24, 7 p. m. The possibility still remains however that it might be brought into the Assembly under article 11, paragraph 2 of the Covenant or under paragraph 9 of article 15 although the legal status of such action is not entirely clear.

2. While in the Council proceedings discussion for obvious reasons concerns itself with happenings in Manchuria, in the background and in corridor conversations the core of the problem is seen as lying in Tokyo. As to the situation in Tokyo there are two theses both evidently without a basis of definite information:

(a) That Japanese action in Manchuria is the result of considered Japanese policy modified only perhaps by the military party precipitating the issue, and that thus a failure to bring Japan to terms as stated above endangers all future international conciliatory action.

(b) That this is a military coup to which the Japanese Foreign Office is opposed [Paraphrase.] (this being a contention put forward here privately by the Japanese) [End paraphrase.] and that to bring too much pressure on Japan at this juncture might only serve to increase the power of the military party with perhaps disastrous results.

3. It is obvious that in the formal proceedings no opinion on these points can be brought forward by any power in Geneva, if indeed there is sufficient information at the disposal of any power to give an opinion. Thus the present treatment of the problem here is felt by many to be fundamentally unsatisfactory.

4. Of the great powers on the Council only Italy is at the present moment represented by a Minister of State, which results in a hesitancy on the part of most representatives to take a position.

[Paraphrase.] 5. It is being privately intimated by the Japanese that the American position is based upon paragraph 2 (b) above; as much has been said to me by one of them.

6. The action of the Chinese is tacitly based upon 2 (a) above. However, the Chinese are beginning to show their concern over whether, should general action be based tacitly upon 2 (b) or if Japan is being favored for reasons of policy, the Chinese may not be drifting into a position of isolation. When I met Sze in the Secretariat corridor, he also intimated the foregoing to me directly. [End paraphrase.]

7. Should pressure be put on Japan and should she prove recalcitrant, the question is gravely discussed as to what the powers could do impressed by the present world situation. It is felt that military pressure is out of the question and that there would be great reluctance to exert economic pressure which would further dislocate world trade. This anxiety appears also to influence action here.

793.94/1900 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 26, 1931—10 a. m.

[Received 3:50 p. m.]

142. In the Council yesterday afternoon the Chinese and Japanese submitted the replies from their respective Governments to the Council's telegram of September 22 and their representatives made certain additional assertions.

These were characterized by conflicting statements regarding recent happenings in Manchuria bearing on responsibility for the origin of the conflict and on the present location of troops, many of these being repetitions of previous statements.

The Japanese assertions respecting the position of their troops were substantially those reported in Department's [*Consulate's*] telegram 133, September 23, 8 p. m. and 140, September 25, 3 p. m. with the following additions. Japanese soldiers have now been mostly withdrawn within the railway zone. There still remain some detachments in Mukden and Kirin and "small number of men in a few other places", but it is denied that Japanese troops have been sent north of Changchun or into Chientao or have taken control of Chinese railways between Mukden and Hsinmin or between Ssuping kai and Chengchiatun. Troops will be withdrawn from Kirin as soon as the menace to the South Manchuria Railway is removed.

The Chinese assertions were principally that Japanese forces now occupied important points in Manchuria, that Japanese soldiers examine travelers on Peking-Mukden trains and that press correspondents are subject to interference. Sze also asked the Japanese representative to explain exactly what was meant by a "small number of men in a few other places."

With respect to policy Japanese position was reported that Japan has had no territorial designs in Manchuria but wishes to protect its rights and interests and the measures that have been taken are only to that end. The general commanding the troops has received orders not to extend operations and the number of soldiers now in Manchuria is not in excess of treaty stipulations. It is the intention of the Japanese Government to withdraw the troops as calm is restored and as promptly as possible [to] do so without danger to its nationals. Japan reiterated a desire to find a pacific settlement by direct negotiations between the two Governments. In view of the present amelioration the Japanese Government considers that this plan of direct negotiations shall be taken up again and it believes that the Council should not risk a premature intervention, but having initiated a pacific settlement should respect the wishes of one of the parties as to the method.

With respect to policy the Chinese position was: China denied the Japanese statement that a Chinese Minister of State had suggested direct negotiations and read a telegram in support of this contention stating that the Chinese Minister in question, T. V. Soong, had replied to the Japanese Consul General on September 22nd that the invasion of Chinese territory "made absolutely impossible any direct negotiations." The Chinese representative insisted this position is maintained. He declared that China places herself without reserve in the hands of the Council, will follow its recommendations and is ready to assume full responsibility for the protection of life and property in the territory now occupied by Japanese troops. China renewed her request for the appointment of a commission composed of neutrals designated by the Council to report upon the withdrawal of the troops to the Council; China suggests that the Council should inform the Japanese Government that unless it proceeds immediately to this withdrawal it will violate obligations contracted under paragraph 1 article 11 of the Covenant. The possibility of invoking article 15 of the Covenant was also mentioned.

When the Chinese and Japanese representatives had concluded Cecil spoke in substance as follows: So far the Council has taken up the matter under article 11 under which the Council is directed to take measures to safeguard peace. The settlement of the question or judgment upon the action of either party is under article 11 not the duty of the Council. The Japanese have declared that the troops are being withdrawn and the Chinese representative has not questioned their declaration. This withdrawal as soon as possible is an indispensable provision for preserving peace. The primary duty of the Council was to preserve peace and it has done it.

The President of the Council then read a statement declaring in substance that in view of the withdrawal of Japanese troops and if efforts are continued to effect an appeasement the Council can hope for a satisfactory settlement. Meanwhile the Council counts upon the firm willingness of both parties not to aggravate the situation and appeals to the Japanese Government to withdraw as rapidly as possible the troops to within the railroad zone. It notes the assurance of China regarding the protection of Japanese life and property. The Council desires to be kept informed of the measures taken by both parties responsive to this appeal which has just been addressed to them.

793.94/1896 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 26, 1931—4 p. m.

[Received September 26—10:35 a.m.]

668. J. D. Thomson, manager and chief accountant of the Peiping-Mukden Railway, reports that he and his family and two foreign women, one Italian and one German, left Huangkutung on Thursday morning of the 24th and that a few kilometers west of Huangkutung saw a Japanese aeroplane overhead and heard rattling which he did not associate with aeroplane at the time. At the next station two passengers were reported dead, one of whom he saw. Marks of bullets on train show that they had been fired from above, presumably from Japanese aeroplane. Train was unarmed and filled with passengers and refugees at the time.

JOHNSON

793.94/2217

*The Consul General at Mukden (Myers) to the Minister in China (Johnson)*⁷⁴

No. 449

MUKDEN, September 26, 1931.

SM: Referring to this Consulate General's despatch No. 446, of September 20, 1931, in regard to the Japanese occupation of Mukden and to subsequent telegrams reporting the extension of this occupation to all centers along the South Manchuria Railway and to other places along the Chinese lines built with Japanese loans, I have the honor to submit further information on this subject. Mukden and Antung were occupied during the night of September 18th and during the next few days all cities along the South Manchuria Railway lines including Newchwang and Changchun were also occupied. Japanese troops subsequently seized Kirin and Tunhua, the eastern terminus of the Kirin-Tunhua Railway, Liaoyuan (Chengchiatun), Tungliao and Taonan, terminal points on the Ssuping kai-Taonan and Taonan-Angangchi Railways. It was learned yesterday (September 25th) that the Japanese battalion at Tunhua had been withdrawn to Kirin and that the occupation of Tungliao has also terminated. A report of the imminent evacuation of Kirin has also been heard. Indications are that the occupation of further territory is not contemplated under existing conditions. It is evident, too, that reinforcements would be required were the occupied area to be extended. Official information is to the effect that the Japanese troops in Manchuria

⁷⁴ Copy transmitted to the Department by the Consul General without covering despatch; received October 19.

number 15,000, which number is within the quota of railway guards permitted by treaty (15 men per kilometer). Reservists who were called to the colors, it is claimed, have been released from duty. In the opinion of some observers, the above figure is small.

The pretext for this occupation, as given out by the Japanese, was the blowing up by Chinese soldiers of the South Manchuria Railway tracks near the North Barracks (Peitaying). Consul Vincent visited the scene of the explosion yesterday and his memorandum on the incident is enclosed. The Chinese have denied that their troops blew up the railway tracks and state that the Japanese troops attacked without cause. Like the numerous other incidents which have occurred in recent years in Manchuria, the Japanese and Chinese versions are totally different and contradictory. In this connection it may be added that there is good reason to believe that the Chinese troops were ordered to offer no resistance and according to information believed trustworthy orders to this effect were received over the telephone from Marshal Chang Hsueh-liang shortly after 11:30 p. m. on September 18th. The Japanese losses in the attack on Peitaying of two killed and about 20 wounded after four hours of "furious fighting" is sufficient testimony of the absence of any directed resistance on the part of the Chinese.

The immediate pretext, after all, is relatively unimportant. That the Japanese have been preparing for such an eventuality is plain from the rapidity with which the occupation was effected. Since the killing of Marshal Chang Tso-lin,⁷⁵ the Japanese have built concrete turrets or blockhouses at every bridgehead and tunnel on the South Manchuria Railway lines. Prior to that time trenches, reinforced in some cases with railway ties, were only to be seen. Barracks, too, in several places were enlarged in the past few years and it had been reported that the transfer of the headquarters of the Kwantung army from Port Arthur to Mukden or Liaoyang was planned. During several weeks just prior to the occupation, the local Japanese troops held manoeuvres almost every night in the railway settlement and on one or more occasions staged a sham fight to the accompaniment of rifle and machine gun fire. It seems possible, therefore, that the alleged pretext was a signal for action, following, as it did, so closely upon the Japanese Cabinet crisis over the Nakamura case. The present is no doubt an opportune time for effecting a solution of the outstanding questions between China and Japan over Manchuria and the recent announcement of the Japanese Government indicates that this is intended. The Japanese view that Manchuria is vital to the safety and welfare of Japan, a view which is widely or universally

⁷⁵ See *Foreign Relations*, 1928, vol. II, pp. 154-155.

held in that country, will probably have to be recognized by the Chinese. Needless to say the situation is charged with possibilities.

The Japanese Government has stated that it regards this occupation as a local issue, one obviously to be negotiated with Mukden rather than with Nanking. The Japanese authorities here are anxious, it is understood, to secure the return of some of the high officials of the Mukden Government who are now at Peiping or elsewhere. Overtures to that end have been made, it is reported, both to Marshal Chang Hsueh-liang and General Chang Tso-hsiang⁷⁰ who is now in mourning at Chin Hsien, his home. It is not thought that the latter could be induced to accept the responsibility of forming a government and of handling these negotiations. Marshal Chang, on the other hand, seems to be the logical person for this difficult and thankless task. Unless he accepts it his position both in Manchuria and China is bound eventually to be impaired.

Chinese officials disappeared as rapidly as the occupation was effected and consequently Chinese administration in the occupied territory ceased to exist. However, in interior districts it is believed that it still functions. The efforts of the Japanese thus far to secure Chinese willing to cooperate with them in carrying on the primary functions of government have met with little success. A municipal bureau, with a Japanese mayor, has been formed at Mukden. It has organized a Chinese Police force with an ex-magistrate (Feng Ching-yi) as head, which so far has not been provided with arms but due to the spread of robbery further steps for the maintenance of peace and order will have to be taken. The latest step in this direction was the formation yesterday of a commission comprising nine Chinese ex-officials, among whom Yuan Chin-k'ai, Yü Ch'ung-han, Li Yu-lan and K'an Shao-hsi are the most prominent.

Respectfully yours,

M. S. MYERS

[Enclosure]

Memorandum by the Consul at Mukden (Vincent)

MUKDEN, September 26, 1931.

On September 25th, the writer was invited by the Japanese authorities to visit the scene of the explosion on the South Manchuria Railway which occurred the night of September 18th, and of the clash between Chinese and Japanese armed forces which ensued. The members of the party making the visit were Major General Miake, Chief of Staff to the Commander in Chief of the Kuantung Army; Mr. Hayashi, Japanese Consul General in Mukden; the British Mili-

⁷⁰ Uncle of Marshal Chang; chairman of Kirin provincial government and deputy commander of Manchurian armed forces.

tary Attaché and Aide from Peiping; and the writer. Lieutenant Colonel Shimamoto, who commanded the Japanese troops attacking the Chinese military camp on the night of September 18-19, was in charge of the party and acted as our informant. Major Watari, a retired army officer in the employ of the South Manchuria Railway, acted as interpreter.

The day before, September 24th, Lieutenant Colonel Shimamoto had taken a group of newspaper correspondents and Captain Mayer and Lieutenant Brown of the Legation, and Lieutenant Cranford of the Embassy at Tokyo, to make an inspection of the same nature. As the two officers from the Legation are making reports to their respective offices which will be available to the Legation, the writer will not attempt to give a detailed account of the occurrences from the military standpoint.

Upon our arrival at the site of the explosion, about five miles north of Mukden on the South Manchuria Railway, Lieutenant Colonel Shimamoto began his lecture by giving a summary of the violation of Japan's treaty rights in South Manchuria and irritating incidents in general which have occurred during the past half year. Most of the incidents enumerated have been reported to the Legation in this Consulate General's despatches. They included such occurrences as minor clashes between Japanese and Chinese soldiers and police, attempts at damage to South Manchuria Railway trains by placing rocks on the track and throwing missiles at passing trains, insults to Japanese women, et cetera. It is interesting to note that no mention was made of the Nakamura case or of the Wanpaoshan incident although the enumeration was not confined to incidents directly affecting the South Manchuria Railway.

On the night of September 18th, six Japanese soldiers commanded by a lieutenant were holding patrol exercises along the railway. They were proceeding in a southerly direction away from their barracks which were about a mile and a half distant. They had just passed by the site of the explosion when they were startled by the detonation and running back saw several Chinese in uniform fleeing down the embankment. The Lieutenant ordered his men to open fire. We were subsequently shown the badly decomposed bodies of two Chinese in uniform near the site of the explosion. Blood stains along the side of the track were also pointed out to us. Shimamoto stated that for humane reasons the bodies should have been buried but that they had kept them there to prove that it was Chinese soldiers who were responsible for the explosion. Visual evidence spoke louder than words, he added.

Two new rails had been put in to replace the ones damaged by the explosion. Our attention was invited to these but in answer to the

writer's inquiry we were told that the rails which had been damaged had been removed. (The day before a section of the damaged rail was shown to the visitors and Lieutenant Brown gave it as his opinion that it did not appear to be a rail which had seen much use.)

The lieutenant in charge of the patrol party sent one of his men back to the company barracks (a distance of one mile and a half) to notify the company commander while he, with the remaining five men exchanged rifle fire with Chinese who were hiding in a nearby field of kaoliang. The company was able to arrive on the scene in twenty minutes because they were drilling at the time. (The day before the visitors were not informed that the company were in readiness when the news was received, an oversight which excited comment because of the time element involved.) Lieutenant Colonel Shimamoto, who was out on a party, was also informed and brought up the other two companies of his battalion from near Mukden, arriving about midnight. He also sent to Fushun for the remaining company of his command which arrived some time later in the night.

Shimamoto then described the engagement which resulted in the capture of Pei Ta Ying, the Chinese military camp. The camp is located about a quarter of a mile from the site of the explosion, to the north. It is about an eighth of a mile to the east of the railway and is adjacent to and north of the kaoliang field. We were not taken to the camp, the description of the encounter being given to us from a vantage point on the railway embankment.

Shimamoto thought at the time he ordered the attack upon Pei Ta Ying, but was not certain, that there were ten thousand Chinese soldiers in the camp. He had something over four hundred men in his command at the time. Later when the Fushun company arrived he had a total of about six hundred and fifty men. The writer inquired whether at the beginning or at any subsequent time the Chinese soldiers in the barracks took the offensive, to which Shimamoto replied in the negative. The writer then asked Major General Miake, who spoke English very well, whether he did not think it rash for so small a body of men to start an offensive against such overwhelming odds, and whether or not reinforcements were not readily available in Mukden. The Major General stated that at this juncture an offense was the best defence and that the number of troops in Mukden was not sufficient to permit the despatch of reinforcements. (At approximately the same time (midnight) that the attack was started on Pei Ta Ying, the investment by Japanese troops in Mukden of the Mukden Commercial Settlement, the Chinese walled city, and the arsenal and aviation field, was commenced.)

One corner of the camp was occupied by the Japanese after a prolonged and sharp exchange of rifle fire. When the Fushun company

arrived, a general attack on the barracks was begun which ended in the complete occupation of the camp by five-thirty, A. M. The Lieutenant Colonel stated that although there were reports to the effect that the Chinese troops had been instructed to offer no resistance, he could testify that they had defended themselves furiously. He stated that fortunately he had found a loaded trench mortar inside the camp and that it was only by firing it as [*at?*] a passage way which the Chinese were defending that he was able to advance to the interior barracks. From the time the attack was commenced until the camp was completely occupied a period of approximately five hours had elapsed. Lieutenant Colonel Shimamoto then (5:30 a. m.) personally led an attack on the kaoliang field and cleared it of Chinese soldiers. The writer asked Shimamoto why, since the Japanese had been originally attacked from the field by what they estimated as being three hundred soldiers, he had not attempted to clear it sooner. He replied that most of the Chinese therein had fled when the attack on Pei Ta Ying had started.

Shimamoto stated that about three hundred Chinese had been killed and an equal number captured. The writer asked how many Japanese casualties there were and received the reply that there were two killed and twenty odd wounded.

The party then returned to Mukden. The inquiries made by other members of the party were concerned with the military details of the engagement and have therefore not been included in this report.

Although there is strong suspicion that the Japanese account of the explosion and engagement are not authentic, it will be seen from the above that matters might have been as described above. It is not a convincing account and the carefulness with which evidence is displayed and the story is told tends more to arouse than to allay suspicion. Discrepancies have been found in various Japanese accounts of the incidents but they are of minor importance and might have occurred in any similar circumstances. What actually happened on the night of September 18-19 will probably never be known, unless, of course, one is prepared to accept the Japanese as the true version, which the writer is not.

The events of the week preceding the explosion, and the feeling and desire of the Japanese Army have no bearing on the events as related by the Japanese, but they are particularly pertinent to the unbiased observer. Without trying to place the responsibility for the explosion, the fact is that it was decidedly desirable from the Japanese Army standpoint and quite as undesirable from the Chinese viewpoint. The Japanese Army wanted, openly and anxiously, action in Manchuria. For a while it appeared that the Nakamura case and the Chinese attitude thereto would provide the desired provocation for

action. However, on September 16th and 17th a settlement of the case which would have satisfied the Japanese demands seemed to be forthcoming at an early date. (Consul General Hayashi has stated, subsequent to the occurrences of Friday, the 18th, that he could have reached a settlement of the Nakamura case through negotiation within a short time if the explosion had not occurred.) The Japanese Army saw, in the probable settlement of the Nakamura case through negotiation, its opportunity for action vanishing. Therefore regardless of the responsibility for the explosion, its occurrence at the time was most desirable and opportune for the fulfillment of the wishes of the Japanese Army.

It, of course, should not be overlooked that the threat of military occupation was probably responsible in a large degree for Consul General Hayashi's success in handling the Nakamura case. Furthermore, the Japanese, from their point of view, have had good reason for being irritated with the attitude and actions of the Chinese in Manchuria during the past year. However, while one may sympathize with the Japanese in their difficulties in Manchuria, one cannot condone the creation of a pretext for military action by the Army which, to the writer, seems to be the true explanation of the explosion and engagement which occurred on Friday night, September 18-19.

JOHN CARTER VINCENT

793.94/1902 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, September 27, 1931—5 p. m.
[Received September 27—3:20 p. m.]

73. 1. Dr. Lee, Vice Minister for Foreign Affairs, called this morning to tell me that reports from Chinese official sources at Geneva were to the effect that the wording of the communications of the American Government to the Japanese and Chinese Governments came as a surprise to some members of the League Council and that whereas there had been marked enthusiasm for an attempted adjustment of the Sino-Japanese controversy through League agency this enthusiasm noticeably waned when the attitude taken by the United States became known.

2. Lee also said that Chinese leaders have been taken aback by lack of any specific reference in the partial note to the Washington Conference treaties or the Kellogg Pact.

3. Lee referred to Japanese official assurances published in the press that Japanese troops were being withdrawn and military offensives had ended. He said that official Chinese reports from Manchuria

were that the scope of Japanese military occupation was being extended and that activities such as the bombing of trains were being continued if not intensified.

PECK

793.94/2141

*The Chinese Chargé (Yung Kwai) to the Secretary of State*⁷⁷

WASHINGTON, September 27, 1931.

SIR: I have the honor to inform you that I am instructed to communicate to you the reply of the Chinese Government to the note of the American Government dated September 24, 1931, as follows:⁷⁸

"The Chinese Government received yesterday afternoon the communication from the American Government regarding the present situation in China, transmitted from Peiping by the American Minister to China.

"The Chinese Government and people are gratified to learn that the Government and people of the United States, feeling themselves much interested in the situation created in China by the action of Japanese troops, desire that principles and methods of peace, instead of armed force, should be used in the relations between China and Japan, as between any other civilized states. It is the conviction of the Chinese Government *that, in addressing its notes to the Chinese and Japanese Governments, (that) the American Government has been prompted by the earnest desire to uphold, as one of the signatory powers, the sanctity of those international treaties, particularly the Treaty for the Renunciation of War signed at Paris in 1928, which bind the parties not to have recourse to war but to use pacific means in their relations with one another.*

"As a result of the aggressive movements of the Japanese troops, our territory has been invaded, our cities and towns have been occupied, and in certain cases ransacked, our public officers and innocent citizens have been injured, insulted and murdered. Even on the very day when the American Government despatched its identic notes to the Chinese and Japanese Governments, advising restraint from further hostilities, Chinese passenger trains carrying refugees on the Peiping-Liaoning (Peking-Mukden) Railway were attacked by bombs and machine gun fire from Japanese military aeroplanes, which resulted in many casualties. *Thus, while the Japanese Government declares that it has taken all measures to prevent the aggravation of the situation and that the troops will be forthwith withdrawn from the occupied areas, (and) free acts of war are still being committed by the Japanese troops. In spite of such circumstances, the entire Chinese Nation has been exhorted to maintain a dignified*

⁷⁷ Corrected copy of note handed by the Chinese Chargé to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on October 1, in substitution for copy bearing same date which was handed to the Secretary of State by the Chinese Chargé on September 28 (793.94/1930).

⁷⁸ Italics denote corrections; italics in parentheses denote erroneous use.

calm, in the belief that the delinquent party will render a full account for its wanton acts to all the civilized states, under the principle of the sanctity of international treaties for the maintenance of peace.

"The Chinese Government can conceive no other way to satisfy the requirements of international law and international agreements, when international law and international agreements have already been trampled under foot, than for Japan to withdraw her troops immediately and completely from the occupied areas and to give full redress to the aggrieved party, the Chinese Government and the Chinese people.

"It is the earnest hope of the Chinese Government that most effective means will be promptly taken for maintaining the dignity and inviolability of the international treaties above referred to, so that all efforts heretofore made by the various powers, especially by the United States for the preservation of peace, might not be in vain."

Accept [etc.]

YUNG KWAI

793.94/1881 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson), at Geneva

[Paraphrase]

WASHINGTON, September 28, 1931—1 p. m.

131. Your 165, September 25, 4 p. m., final paragraph, last sentence. Your course is approved. Should occasion arise, you may inform the Chinese Minister that the American diplomatic representatives in both China and Japan are being informed fully and currently regarding the attitude of the Department concerning the situation in Manchuria.

STIMSON

793.94/1907 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

[Paraphrase]

TOKYO, September 28, 1931—3 p. m.

[Received September 28—noon.]

162. Your 169 of September 24.⁷⁹

(1) It is not likely that the Japanese Government will now consent to an investigating commission from a third party. Baron Shidehara said as much to me at the time I delivered the note. I believe the Japanese are ready at any time to negotiate with the Chinese directly.

⁷⁹ See last sentence of Department's No. 341, September 24, 6 p. m., to the Minister in China, *Foreign Relations, Japan, 1931-1941*, vol. I, p. 10.

(2) What is in the minds of the Japanese, or at least of those in control in Manchuria, appears to be a settlement there of a number of outstanding issues. Some of these issues are claims, such as the Nakamura case; other issues are broader, such as the status of Koreans in Manchuria, land rights and taxation, and railway construction, and still other issues are borderline questions, such as alleged boycotts, interference with legitimate business of Japanese, etc. It is claimed that seldom have the Japanese been able to arrive at definite understandings concerning any of these matters and that the Chinese in many cases are either unwilling or unable to execute the agreements actually made.

(3) It is believed by many Japanese that the South Manchuria Railway must have extraordinary protection and that at times the property and even the lives of Japanese are endangered. They think the recent Chinese action in destroying, or trying to destroy, a part of this Railway is a sample of what may be expected in South Manchuria. The military authorities and at least part of the Japanese public are convinced that at this time a demonstration was needed of Japan's will and ability to protect Japanese rights.

(4) The Japanese are determined not to have any contending factions of Chinese in Manchuria. A great many Japanese believe Manchuria would without Japanese troops be given over to bandits, since the Chinese lack public spirit or military discipline. This notion is borne out somewhat by the fact of a small Japanese force being able in a few hours to take charge of Mukden and its famous arsenal despite the alleged proximity of 20,000-odd crack Chinese troops. There were supposed to be more than 60,000 Chinese troops in the Changchun-Kirin area, yet both places were occupied by the Japanese with less than 5,000 soldiers. The Chinese at Mukden and Kirin had many more men than the combined Japanese contingent in Manchuria. My best military information bears out the statement by Japanese that they have not gone beyond the 15,000 men permitted as railway guards. Many Japanese feel that this incident indicates such a degree of indiscipline as to be dangerous if others had to rely upon it, and they intend to make the Chinese realize that legitimate Japanese interests cannot be interfered with by them with impunity. The Japanese wish to obtain assurance, by fear if no other way is open, that Japanese rights will be respected.

(5) To what extent the conservative elements in Japan share this attitude I do not know, but I know Shidehara was in dread of such an incident. I do not believe the Tokyo Foreign Office approves using force now, and I think the big business leaders deem it as a mistake. My information is that Japanese business has already been affected in other parts of China through the cancellation of contracts.

This may be due also to a fear of war and to the fact that since the fall of the British pound many lines of goods may be bought in Britain.

(6) If a joint Chinese-Japanese conference can be arranged, I am inclined to think the Japanese delegates would be conciliatory, particularly if the Foreign Office directs them. So far as I can see, there is little chance in any case of getting for the time being any other arrangement from Japan.

Above repeated to Peiping.

NEVILLE

793.94/1904 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 28, 1931—4 p. m.

[Received September 28—7 a. m.]

675. Following two telegrams have just been received from American Consul General at Nanking:

"September 28, 10 a. m. I have received eyewitness report that crowd of students from Shanghai and Nanking aggregating more than 2,000 are mobbing the Foreign Office demanding resignation of the Minister of Foreign Affairs because of alleged friendship for Japan, end of policy of nonresistance, and war with Japan."

"September 28, 11 a. m. My September 28, 10 a. m. Reliable report that the Minister for Foreign Affairs has been so beaten by students and cut with broken glass that he may not live. Presumed to be now with President Chiang. C. T. Wang ignored warning of danger and insisted on remaining at his duty."

JOHNSON

793.94/1904 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, September 28, 1931—6 p. m.

80. Please deliver to Minister for Foreign Affairs as from me the following message:

"Reports of attack on you have shocked me and I hasten to express my earnest hope for your speedy recovery."

STIMSON

793.94/1918a : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, September 28, 1931—6 p. m.

175. This afternoon I had a talk with Debuchi, in the course of which I said to him that at the present moment our great difficulty lay in the fact that the Department had no adequate information from American representatives regarding the Manchurian situation. With the Consul General at Mukden absent, only a Vice Consul is there. I explained to Debuchi that I must have authentic, full information on the situation in order to answer questions adequately. I told him I should like the Consul General at Harbin, Mr. Hanson, who has long been in and is familiar with Manchuria, to proceed to Mukden and to other places occupied by Japanese troops and to report to me, and I should like Mr. Salisbury of the Tokyo Embassy to join him. The Ambassador responded that he would telegraph immediately to the Foreign Minister and urge that this should be done, once more emphasizing the American Government's friendly attitude. Debuchi remarked that it would not be an international investigation and that under these circumstances it would appear to be most natural for the American Embassy to request that a member of its staff be allowed to visit Manchuria. Accordingly, I should be glad for you to request Baron Shidehara for permission to send Salisbury there to obtain information for you. You might at the same time tell Shidehara that we wish Hanson to join Salisbury in Manchuria and that it is your hope the Japanese authorities will afford all facilities to Hanson and Salisbury to look into the situation. As to this request you may tell Shidehara there will be no publicity, and it may well be regarded as a routine measure, since there is no trained officer of ours in Mukden at present to report.

Before you see Shidehara, it is important that he receive Debuchi's telegram, but Debuchi promised to send it immediately and to urge the granting of facilities. If this is to be done, it should be done very promptly.

STIMSON

793.94/2359

*The Consul at Dairen (Langdon) to the Chargé in Japan (Neville)*⁸⁰

DAIREN, September 28, 1931.

SIR: As of possible interest to the Embassy, I venture to make certain observations on the recent Japanese coup in Manchuria.

⁸⁰ Copy transmitted to the Department by the Consul at Dairen without cover.

CIRCUMSTANCES OF OCCUPATION

Nobody here, not even the Japanese themselves, appears to credit the Japanese claims that the Chinese provoked hostilities and that the Japanese forces acted in self-defence. The very nature of the Japanese measures, punitive from the outset, precludes belief in their self-defensive character. Outside of stereotyped statements for foreign consumption, the local Japanese authorities, residents, and press seem to have forgotten the original charge of Chinese aggression, and look upon the occupation of South Manchuria as a political measure to settle international disputes of long standing.

Anyone familiar with the low level of intelligence and initiative of the Chinese soldier dismisses as absurd the claim that he mined and blew up a railroad bridge and attacked the Japanese soldiers guarding it. Such an enterprise could only have originated and been directed by the high Chinese command, but this theory too cannot be supported with logic. Why would the high Chinese command, knowing the temper of the Japanese Army over the murder (or irregular shooting as a spy) of Captain Nakamura in Eastern Inner Mongolia, challenge Japan and yet be so absolutely unprepared to fight? There appears to be no question about the completeness of the surprise of the Chinese. On the other hand, the evidence that the Japanese had a carefully laid plan of action is overwhelming.

The recent propaganda regarding Japanese injuries in Manchuria conducted by the War Office, the urgent conference in Tokyo of the Supreme Military Council just prior to the occupation, the reported opposition of the Japanese Foreign Minister to the War Office's "plan for dealing with the Manchurian situation", the coincidence of the coup with the arrival in Mukden from Tokyo of Colonel Doihara, the special representative in Mukden of the General Staff, the precision and suddenness of military movement, the simultaneous occupation of so many strategic centers, in fact every phase of the incident points to careful preparation in every detail.

CAUSES OF OCCUPATION

The cause of the Japanese occupation of South Manchuria is not believed to lie in military men's indignation over the murder of a fellow officer, or in any one or a cumulation of disputes with the Chinese, although the recurrence of such disputes and their exaggerated publicity made Japanese public opinion favorable to extreme action. The cause is unquestionably of more fundamental character: the growth of Chinese economic and political independence in Manchuria and Japan's declining influence there. Regarding Manchuria as her special field for capital investment and economic exploitation,

Japan has viewed with envy and concern the exclusive economic activity of the Chinese, some of it reserved to her by treaty and some of it actually competitive with her own enterprises. Particularly has she been dismayed over the declining receipts of the South Manchuria Railway in contrast to the prosperity of the new Chinese railroads, and over the dullness of cargo movement in Dairen compared with the relative activity of Newchwang and Chinwangtao. Having a forward political policy also, Japan has with difficulty concealed her displeasure at the increasing liberty of action of the Chinese, such as their adoption of the Nationalist flag and union with Nanking over Japan's opposition, the construction of railways and harbors to compete with Dairen and the South Manchuria Railway system, and finally the isolation of Dairen from domestic trade by Customs legislation. The occupation of Manchuria is believed to be an effort to halt Chinese control before it becomes absolute, and to establish Japanese political and economic mastery in the region. To sum up my views, the recent coup was deliberately planned to shear the rising Northeastern Government of all power as well as to crush the increasingly dangerous and hostile Northeastern Army, and to clear the way for renewed Japanese economic activity.

EFFECTS OF OCCUPATION

While it is idle to speculate on the outcome of the Japanese occupation of Manchuria, it is reasonably certain that the Northeastern Government for some time to come will be devoid of any real fiscal, constructive, or administrative power. An important buyer of American construction material and equipment will thus be lost for the time being. American and European firms and banks which have supplied the Northeastern Government with credits may lose sums of money besides. Forwarding agents in Dairen state that up-country import business, which was improving somewhat in anticipation of the winter season, has come to a standstill as a result of consignees' and dealers' anxiety over future political developments. The question of specie cover for Northeastern Government banknotes in circulation with the Northeastern Government no longer functioning is also a disturbing thought to merchants. There is no doubt that the Japanese coup has dislocated, for some time at least, well-established and smoothly running economic arrangements in a wide area, and added a small measure to the world's distress at the moment. On the other hand, the severity of the Japanese Government at this time may give the Chinese authorities a greater sense of responsibility in foreign relations, with ultimate benefits to foreign trade and residents in China.

Respectfully yours,

WM. R. LANGDON

793.94/1931 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 29, 1931—9 a. m.

[Received 2 p. m.]

144. Consulate's 142, September 26, 10 a. m. Council last night resumed consideration of the Sino-Japanese dispute. Japan announced that the withdrawal of troops is continuing and that now Japanese soldiers remain outside railway zone only at Mukden, Kirin and small detachments at Hsinmintung and Chengchiatun. The Chinese delegate requested explanations of the reported attacks by airplanes on trains of the Peiping-Mukden Railroad.

With regard to policy the Japanese reiterated their intention of withdrawing troops as the return of peaceful conditions makes it possible. The assurance of the Chinese Government has not always been able to enforce its authority in the provinces.

In replying to the Japanese statement, the Chinese delegate wished the assurance that all the troops were withdrawn, the *status quo ante* would be completely restored and that any property seized would be returned. On the question of how the evacuation should be carried out, the Chinese delegate stated that the views of his Government favoring a neutral commission of inquiry were well known to the Council. However, in a desire to be conciliatory he "proposed that the Council should help the parties to reach an agreement as to arrangements on the spot which would make it possible to fix an early date for the completion of the withdrawal of troops, and render it unnecessary for the Council to send a Commission of Inquiry from Geneva." In the debate upon his proposal that ensued the Japanese delegate declared that he would at once telegraph to Tokyo the proposal for the organization of a commission on the spot to expedite the evacuation provided such commission was composed solely of Japanese and Chinese; if the Chinese proposal envisaged the inclusion of nations of any other state he would not transmit it to his Government. The Chinese delegate maintained the view that since there were matters on which the two countries could not agree and since his proposals envisaged the Council's help in reaching an agreement, there should be a representative of the Council appointed on the commission which would report to the Council.

Cecil here intervened in an attempt to reconcile the two points of view but no solution was reached in the meeting. His suggestion that the Chinese delegate put in writing his proposals for the organization of a commission on the spot was adopted.

The Council then adjourned after a statement from the President that he would explain the entire situation to the Assembly at its session this morning.

GILBERT

793.94/1915 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 29, 1931—10 a. m.

[Received September 29—3 : 30 a. m.]

677. Your 349, September 28, 11 a. m., received September 29, 9 a. m.⁸¹

1. Best available estimate Japanese troops in Manchuria as follows:

Regular troops, Second Division: 1 brigade at Changchun, 1 brigade at Kirin, 1 battalion at Tunhua, 1 battalion at Chengchiatun, 1 company at Yinglingkan. Total of Second Division: 7,000 men (Japanese figures); 2 air squadrons, strength unknown. Independent Korean brigade of 3,000 stationed at and near Mukden. Railway guards of 5,000 men (6 battalions). Japanese claim above units on peace footing and figures as above, but Legation's advice is that 8,432 men and officers form peace strength division.

It is generally believed that the headquarters of the heavy artillery brigade at Port Arthur and 8 guns entrained for Mukden. Total number of guns not known. Heavy artillery personnel figures not included in above estimate.

2. With reference to Reservists please see Military Attaché's report dated June 22, 1931, number 8048, which is believed to be substantially correct. Military Attaché's estimate is that Japanese Reservists in Manchuria number approximately 30,000. It is now impossible to estimate number of Reservists being used. They were used in the beginning and it is believed that they are still being used although as [*sic*] they are now [*not?*] in regular uniform.

JOHNSON

793.94/1926 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, September 29, 1931—4 p. m.

[Received September 29—11 : 35 a. m.]

165. Department's telegram number 176, September 28, 7 p. m.⁸¹ The following is estimate of Japanese troops with colors now in Manchuria based on reports of Lieutenant Cranford in Mukden and data in office of Military Attaché, Tokyo.

⁸¹ Not printed.

Second Division: Tunhua, 1 battalion of Thirtieth Infantry, 500; Kirin, Brigade headquarters, Fourth Infantry, Thirtieth Infantry less 1 battalion, Second Field Artillery, 1 battalion of heavy field artillery, Second Squadron Cavalry, Second Battalion Engineers, 3,300; Changchun, Second Division headquarters, Brigade headquarters, Sixteenth Infantry, Twenty-ninth Infantry, 2,200; Fifth Railway Guards from Changchun to Tunhua, 800; First Railway Guards from Changchun to Ssupingkai, 800. Total in Second Division area, 7,000.

Thirty-ninth reenforced brigade from Korea: Chengchiatun, 1 battalion of Seventy-eighth Infantry, 1 battery of Twenty-sixth Field Artillery, 1 squadron of Twenty-sixth Cavalry, 800; Mukden, Kwantung army headquarters, Thirty-ninth Brigade headquarters, Seventy-seventh Infantry less 1 battalion, Seventy-eighth Infantry less 1 battalion and 2 companies, Twenty-sixth Field Artillery less 1 battery and 1 section, 1 battalion of engineers, 3,400; Hsinmintun, 2 companies infantry and 1 section of field artillery, 340; Yingkow, 2 companies of infantry, 300; Antung, 1 company infantry, 150; 1 company of Sixth Railway Guards from Chengchiatun to Ssupingkai, 2 companies of Sixth Railway Guards at Ssupingkai, Second Railway Guards, Ssupingkai to Mukden, Third Railway Guards, Mukden to Antung and Tashichiao, Fourth Railway Guards in Kwantung. Total railway guards, 3,200. Total troops in Thirty-ninth Brigade area, 8,200, Sixth Air Regiment, probably including 2 observation squadrons, location unknown, 300. Total Japanese troops in Manchuria, 15,500.

Above figures are based on estimated normal peace strength of units.

Total Japanese loss reported as follows: Mukden, killed 3 privates, wounded 4 officers, 19 privates; Changchun, killed 3 officers, 63 privates, wounded 3 officers, 73 privates; total killed 69, wounded 99.

On 25th, two armored trains reported sent to Taonan, returned 26th.

NEVILLE

793.94/1919 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

[Paraphrase]

TOKYO, September 29, 1931—7 p. m.

[Received September 29—10:30 a. m.]

166. Department's 175, September 28, 6 p. m. This afternoon I saw the Minister for Foreign Affairs. Shidehara said he had not heard from Debuchi. but there could not be any possible Japanese

objection to the sending of two American service men through the Manchuria region. He asked me to inform him when Salisbury would leave, in order that arrangements might be made to facilitate his journey.

I plan for Salisbury to start in a day or so at the latest and shall ask Minister Johnson in Peiping to let Hanson meet Salisbury in Mukden or Changchun. Then they can prepare their itinerary. I suggest that they visit Changchun, Kirin, Tunhua, Chengchiatun, Taonan, Mukden, Yingkow, Antung, and other places where Japanese forces have observation posts or have been. Reports should be sent regularly to this Embassy and the Legation at Peiping to be transmitted to the Department. They would then return to their posts.

If the above is approved by the Department, I request authority to give \$500 as emergency expense money to Salisbury, who will account for it later.

NEVILLE

793.94/1919 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, September 29, 1931—6 p. m.

177. Your 166, September 29, 7 p. m. It gratifies me that the Japanese Minister for Foreign Affairs appreciated so quickly my need of information directly from Manchuria and that he consented immediately to give Salisbury and Hanson permission to make the trip. You may, as suggested in your telegram, give Salisbury the emergency expense money of \$500 to be accounted for later.

The Department wishes Hanson and Salisbury to visit the various Manchurian points where fighting has occurred or where Japanese forces have gone beyond a point allowed them under treaty, such as Kirin. It is desired that they express their best judgment on the justification for such troop movements, on the scope and extent thereof and the reasons alleged. It is claimed by the Japanese that occupation of these places is purely temporary and that as soon as the danger to Japanese lives and property passes the troops will be withdrawn. This should be checked on the spot and any obtainable evidence should be reported as to whether Japanese troops have been withdrawn or when their withdrawal is planned. The Department wishes to know what form of civil administration, if any, the Japanese have set up in places other than Mukden and, if anything has been done of this sort, whether the Chinese civil administration is being interfered

with unduly by the Japanese military. Regarding Mukden, it should be reported how far the international and the native parts of the city are held by the Japanese; whether civil administration at present can act with any independence and to what extent it has been restored. The Mukden radio station put up by the R.C.A. is reported to have been destroyed.

The Department desires either confirmation or denial of this, and if there was only partial destruction, a statement is desired as to whether the radio station is being put back into operation. Information is desired on the Chinese attitude toward the Japanese, whether it be such as to make the withdrawal of Japanese forces difficult without incurring the danger of banditry or reprisal, with resultant loss of Japanese life and property. The report has been received here that the Chinese who actually reside in Manchuria were not unfriendly to occupation by the Japanese. If senseless acts, such as the bombing of trains, have taken place, as reported in the press, the Department would like to know if irresponsible troops were to blame and if the deserved punishment has been administered by the military authorities. It is assumed that both Hanson and Salisbury already understand Japanese rights in Manchuria. With these rights kept in mind, they should be able to report how far Japanese rights have been extended illegally, whether such extension was justifiable and if a desire appears to exist to restore the *status quo ante*.

When full information has been obtained on these various points, it should be cabled without delay, and both Salisbury and Hanson, after their inspection, should write full reports to the Department on the facts and the deductions to be drawn, in their opinion, from these facts. All this should be explained by Salisbury to Hanson when they meet. The Department wishes to receive very promptly as accurate a picture of the Manchurian situation as can be cabled and subsequently a carefully considered estimate of it.

STIMSON

793.94/1936 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 30, 1931—9 a. m.
[Received September 30—3:20 a. m.]

680. Following two telegrams from Mukden:

"September 29, noon. *Swoop* [?], Japanese edited Chinese paper, today reports that Chinese officials at a meeting at Kirin on the 26th decided to form a provisional government and elected Hsi Chia, the Chief of Staff and Acting Chairman, and [*replacing?*] Chang Tso-hsiang as Provisional Governor of the Province. Practically all other members of former commission have been elected as chief[s] of their

respective bureaus. This Government will control civil, military, and judicial proceedings, full responsibility for the administration resting on the Governor.

The commission form of government prescribed by Nanking has been abandoned apparently. Report not yet confirmed.

Latest according to information some Japanese forces are still at Kirin."

"September 29, 5 p. m. Three thousand Chinese police have been recruited for service Mukden, many of them armed. Japanese forces are now less in evidence in the city. In order to restore confidence it is understood that Japanese forces will not be withdrawn until there is assurance that the Chinese can keep order. Traffic on the Peiping-Mukden line south of Hsinmin was interrupted for 1 day following the wrecking of southbound passenger train by bandits on the 26th. The southbound train which left here yesterday morning returned from Hsinmin last night due to the menace from bandits. Until adequate protection will be afforded, travel on this section is hazardous.

The formation of the Kirin Government reported in my September 30 [29], noon, confirmed. Local Japanese press reports Chinese opposition to proposed establishment of provincial government at Chinchow and the existence of movement for the independence of Manchuria and Mongolia."

JOHNSON

793.94/1935 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, September 30, 1931—10 a. m.

[Received September 30—9:45 a. m.]

149. Consulate's 144, September 29, 9 a. m. The following is the "compromise" proposal which the Chinese plan to present to the Council today:

"Whereas the Chinese Government still believes that the best method that may be devised by the Council for securing the prompt and complete withdrawal of the Japanese troops and police and the full reestablishment of the *status quo ante*, is the sending of a neutral commission to Manchuria and,

Whereas, the Chinese representative is desirous of being as conciliatory as possible and of meeting halfway the wishes of the Japanese Government; therefore the following proposal is made:

That the Council shall help the parties to come to an agreement as to arrangements on the spot which will make it possible to fix an early date for the completion of the withdrawal of all troops, police and aerial forces, thereby making it unnecessary to send a commission of inquiry in connection with the complete restoration of the *status quo ante*;

That the Council in making the arrangements referred to shall appoint neutral persons on the spot to represent it who shall participate in all arrangements made and report currently to the Council."

Please regard this as confidential until Consulate's telegram reporting this afternoon's session of the Council is received.

GILBERT

893.002/234 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 30, 1931—4 p. m.

[Received September 30—6 a. m.]

683. Following from American Consul General at Nanking:

"September 30, noon. I have just been informed by the Minister of Finance that the resignation of C. T. Wang as Minister of Foreign Affairs has been accepted and Alfred Sze has been appointed to succeed him. T. V. Soong explained that by the appointment of Sze the Government wished to indicate that it had not departed from its policy with respect to the Sino-Japanese controversy."

JOHNSON

793.94/2114

Memorandum by the Under Secretary of State (Castle) of a Conversation With the Counselor of the French Embassy (Henry), September 28, 1931

[WASHINGTON,] September 30, 1931.

Mr. Henry came in to tell me that he had reported to his Government the attitude of this Department with regard to Manchuria, as I explained it to him about the 24th. He had a telegram which he read me, stating that the French Government was grateful for the communication, that it was entirely in sympathy with the attitude of this Government and felt that what had been done so far was thoroughly wise.

W[ILLIAM] R. C[ASTLE], JR.

793.94/2351

The Minister in China (Johnson) to the Secretary of State

No. 1201

PEIPING, September 30, 1931.

[Received October 26.]

SIR: I have the honor to report that on September 17th I had a conversation with Mr. Makoto Yano, Counselor of the Japanese Legation in Peiping, in the course of which we discussed the situation in Manchuria. The Department will observe that this conversation took place just twenty-four hours before the occupation of Mukden by the Japanese. (See enclosure #1).

On September 21st the Japanese newspaper *Keishiv-Nichinichi Shimbun* in Tientsin published what purported to be a statement made by me to Mr. Yano, in which I am quoted as suggesting that "Japan should avoid military and political measures in dealing with Manchuria and Mongolia". This item was copied by the Chinese newspaper *Ta Kung Pao* (Tientsin) of September 22nd. (See enclosure #2).⁸²

On the following day Mr. Nakayama, First Secretary of the Japanese Legation, called on Mr. Engert⁸⁴ to say that Mr. Yano was extremely sorry this publicity had been given to his informal interview with me, and that he had at once taken steps to deny it. As a result the Japanese paper had published a denial on September 22nd, and the Tientsin *Ta Kung Pao* on September 23rd. (See enclosure #3).⁸³ He added that Mr. Yano would express his regrets to me in person.

Mr. Yano called on me on September 24th to explain the matter. (See enclosure #4).⁸³ I assured him that as far as I was concerned no harm had been done.

Curiously enough, no English language newspaper in Peiping or Tientsin appears to have noticed the original item in the Japanese and Chinese papers. Had they done so, far greater publicity would doubtless have been given to the interview—especially in the light of subsequent events—and the Japanese Legation would have found it much more embarrassing. Both Yano and Nakayama seemed distinctly nervous lest my alleged expression of opinion prove damaging to the Japanese cause.

Respectfully yours,

NELSON TRUSLER JOHNSON

[Enclosure]

Memorandum by the Minister in China (Johnson)

PEIPING, September 17, 1931.

I saw Mr. Yano, Counselor of the Japanese Legation, at the home of Mr. Engert this evening and after dinner we discussed the question of the Nakamura case and the Japanese attitude toward Manchuria. I told Mr. Yano that my information was that the Japanese were preparing to occupy Manchuria but that I was not disposed to credit this information.

Mr. Yano stated that such information was of course absurd. They were now awaiting a second investigation into the Nakamura case and it was to be expected that this matter would be settled amicably between the two countries. He said it was fantastic to think that Japan would take physical possession of Manchuria at this

⁸² Not printed.

⁸⁴ Cornelius Van H. Engert, First Secretary of Legation.

time when it was so easy for Japan to exploit the country economically without any of the burdens contingent upon administrative expense. He stated that this was the view of Japanese military authorities in spite of the fact that there might be a few minor military officials who were given to talk of a disturbing character.

NELSON TRUSLER JOHNSON

793.94/1957: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 1, 1931—9 a. m.

[Received 3:25 p. m.]

150. Council last night resumed consideration of the Sino-Japanese dispute.

The opening statement of the President was substantially as follows:

Under article 11 of the Covenant the duty of the League is to safeguard peace and the Council has concluded to this end the withdrawal of Japanese troops into the railway zone is of paramount importance; it is recognized that a certain time must be allowed for this withdrawal. Since both parties have concurred in this view, without prejudice to the method of settlement of questions between them, the President was of the opinion that no useful purpose would be served by continuing the discussions of the Council but it was his understanding that the Council "will follow the further developments of this affair" and "will be ready at all times to render any assistance that may be useful". Other portions of the President's statement were in line with the resolution later adopted. He then proposed the following resolution which is given in full as it forms the basis of the League's position:

"The Council

1. Notes the replies of the Chinese and Japanese Governments to the urgent appeal addressed to them by its President and the steps that have already been taken in response to that appeal;

2. Recognizes the importance of the Japanese Government's statement that it has no territorial designs in Manchuria;

3. Notes the Japanese representative's statement that his Government will continue as rapidly as possible the withdrawal of its troops, which has already begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured and that it hopes to carry out this intention in full as speedily as may be;

4. Notes the Chinese representative's statement that his Government will assume responsibility for the safety of the lives and property of Japanese nationals outside of that zone as the withdrawal of the Japanese troops continues and the Chinese local authorities and police forces are reestablished;

5. Being convinced that both Governments are anxious to avoid taking any action which might disturb the peace and good understanding between the two nations, notes that the Chinese and Japanese representatives have given assurances that their respective Governments will take all necessary steps to prevent any extension of the scope of the incident or any aggravation of the situation;

6. Requests both parties to do all in their power to hasten the restoration of normal relations between them and for that purpose to continue and speedily complete the execution of the above-mentioned undertakings;

7. Requests both parties to furnish the Council at frequent intervals with full information as to the development of the situation;

8. Decides, in the absence of any unforeseen occurrence which might render an immediate meeting essential, to meet again at Geneva on Wednesday, October 14th, 1931, to consider the situation as it then stands;

9. Authorizes its President to cancel the meeting of the Council fixed for October 14 should he decide, after consulting his colleagues, and more particularly the representatives of the two parties, that in view of such information as he may have received from the parties or from other members of the Council as to the development of the situation, the meeting is no longer necessary."

The Japanese delegate accepted the resolution. He declared, however, it was entirely useless to take special measures for investigation particularly as there are "many persons" on the spot from whom information can be obtained. He then suggested that members of the Council send to the Secretary-General for communication to the Council if he deems it desirable whatever information their respective Governments could collect.

The Chinese delegate in reply noted that the Japanese Government now recognized the necessity of neutral information. He interpreted the resolution as meaning that "the Council is conscious of its responsibility to help both parties to secure the complete and prompt withdrawal of the armed forces of Japan and the full reestablishment of the *status quo ante* and remains in session until that responsibility is fully discharged." If the establishment of the *status quo ante* is not achieved by October 14 he expected the Council to examine what other means may be required; in this connection he recalled his two proposals: (1) commission of inquiry, (2) local arrangements for investigation on the spot. Sze also stated he considered the establishment of the *status quo ante* as a preliminary step and reserved its [the?] right under the Covenant to look to the Council later for aid in determining the civil responsibility of the two parties.

The Japanese delegate declared that he could not accept the interpretation given by Sze but could only accept the resolution as presented.

The President thereupon stated that it is not necessary now to enter upon questions of interpretation and that the rights of the two parties remain intact.

The resolution was then adopted.

[Paraphrase.] Referring to the Chinese "compromise" proposal in regard to an inquiry commission (see Consulate's 149, September 30, 10 a. m.), it may be noted that it was not presented to the Council. Sze told me confidentially, after the meeting of the Council, that he was persuaded not to bring it forward, although it was circulated to the Council members as an "elucidation" of his proposal presented on September 28 to the Council meeting (see Consulate's 144, September 29, 9 a. m.), and that he was holding this proposal in reserve to bring it forward if necessary upon "further developments of the affair" which the President mentioned in his speech.

While the European press seems to be designating Sze as Chinese Foreign Minister, he told me in conversation that the post had been offered him and he had informed his Government that he would not for personal reasons be able to accept. [End paraphrase.]

Those representatives of the powers in Geneva who seem to be best informed on Far Eastern affairs have expressed their opinion on happenings here as distinctly a Chinese diplomatic victory, the Chinese having attained their objective of keeping the matter in the hands of the League. They also express their belief that future Chinese policy will be to employ this present incident indefinitely in the future in securing the League's continuing concern with the whole Manchurian situation.

The implication which one present at the proceeding draws is that on the one hand it is the desire of the leaders in the Council to restrict the Council's action to the single question of the withdrawal of the troops while on the other hand it is the policy of the Chinese to involve the Council as deeply as possible in all of the aspects of the situation.

GILBERT

793.94/1958 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 1, 1931—10 a. m.

[Received 8:55 p. m.]

151. Consulate's 150, October 1, 9 a. m. After the Council's session concluded late yesterday the Secretary-General gave Minister Wilson the following exposition of his views and information :

Drummond said that Yoshizawa's statement in the Council meeting suggesting that all Council members transmit to the Secretary-General any information obtainable from the disturbed area had resulted from a long and continued pressure by the Council upon the Japanese and was the nearest the Japanese could be brought to the acceptance of any form of independent information from Manchuria. Yoshizawa felt his making this statement was a very great concession. It is learned, incidentally, that already a British military attaché is on the spot, having proceeded to Manchuria on his own responsibility and without orders as soon as he heard of the trouble. Drummond expressed the hope that there may be made available to him any pertinent information which the American Government may find it wise to let him have.

In the speech of the President of the Council the portion concerning the offer of help, should it be desired, was phrased very carefully, this also being the result of a lengthy struggle with the Japanese. It was purposely left vague before beginning negotiations in view of the insistence by the Chinese that to invoke help it should be sufficient if one party to the dispute requests it.

Drummond stated in the strictest confidence that several times the Chinese had threatened that they might conclude a Soviet alliance if the League failed to get results in this matter. From the Japanese, also very confidentially, Drummond learned on the other hand that the Japanese have been talking with the U. S. S. R. and anticipate no difficulty. It is possible, Drummond added, that the Chinese and Russians were discussing an alliance without entertaining any thought of direct action in Manchuria. In Drummond's opinion, for the moment at any rate, this is headed off by what he feels to be the favorable turn which the affair is taking. He is anxious to avoid being placed in a position where he is continually being approached by the Chinese with protests and threats of action on their part. In his view, the Chinese now should undertake to do their share with as much independence as possible during the adjustment period lying immediately ahead. Drummond would like the United States if possible to make a suggestion to the Chinese in the foregoing sense.

In this regard it is obviously a delicate matter for you to make such a suggestion without possibly having the Chinese draw the implication that there is a lack of confidence in Drummond or that their case is being minimized. However, I am reporting Drummond's thought to you to the effect that you may possibly find an occasion for cooperation in this matter with him.

793.94/1949 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, October 1, 1931—1 p. m.

[Received October 1—6:09 a. m.]

686. Your 355, September 30, 6 p. m.,⁸⁶ last sentence. While train service is maintained to Mukden, it is not very safe. The only telegraphic communication is via Dairen by Japanese lines. The Chinese wireless to Harbin is functioning.

JOHNSON

793.94/1952 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, October 1, 1931—5 p. m.

[Received October 1—9:30 a. m.]

170. Japanese General Staff today gives Military Attaché following distribution of Japanese troops in Manchuria for 29th September:

Second Division, main body Changchun, 1,500 Kirin; Thirty-ninth Brigade from Korea, main body Mukden, 500 Chengchiatun, 250 east of river, Hsinmintun.

Railway guards; Fifth Battalion, Kirin, Changchun; First Battalion, Changchun, Ssupingkai; Sixth Battalion, Ssupingkai, Chengchiatun; Second Battalion, Ssupingkai, Mukden; Third Battalion, Mukden to Antung and Yingkou.

One battalion moving October 1st to [garbled] east of Tiehling where many Koreans have been reported killed.

Repeated to Peiping.

NEVILLE

793.94/1970

Memorandum by the Secretary of State

[WASHINGTON,] October 1, 1931.

The Japanese Ambassador said that he had received a message from Baron Shidehara telling him to inform me that the tour of Manchuria by Mr. Hanson from Harbin and Mr. Salisbury from Tokyo was perfectly welcome to the Japanese authorities and would be facilitated in every way by all of the Japanese authorities, including the military authorities. The Ambassador laid emphasis on the last words. I told him that I was much gratified and pleased and that I had received

⁸⁶ Not printed.

a short message to the same effect from Neville. I said I had made no announcement of my request and would try not to do so until it was agreeable to Japan. He said that the newspapers would undoubtedly announce the leaving of Salisbury from Tokyo and that I could then confirm it. I told the Ambassador that Mr. Forbes⁸⁷ was here and would like to call on him. He said he would be very glad to see Mr. Forbes, and I then arranged with Mr. Castle to have them meet here.

H[ENRY] L. S[TIMSON]

793.94/2143

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] October 1, 1931.

The Japanese Ambassador called when Mr. Forbes was in my office. After greeting Mr. Forbes he asked if he might pass on to me the messages which he had come to discuss, adding that he would like to have Mr. Forbes listen.

Mr. Debuchi said that he had already told the Secretary that the Japanese Government would welcome Mr. Salisbury and Mr. Hanson in Manchuria to make an investigation on the spot of what is going on. To this he added that the Japanese Government would be very glad to have them associate with themselves American military officers, if they so desired.

The Ambassador said that the Secretary had asked him about the wireless station in Mukden, which was reported to have been destroyed. He said that only the "dispatch line" was out of commission. He was not sure of the meaning of this, but it obviously means the instrument for transmitting messages. This can, according to his information, be restored at any moment and Baron Shidehara has promised to do his best to get the station into operation as quickly as possible. Mr. Debuchi said that probably the military had closed the station temporarily. He said that protests had been made by the American Consul in Mukden, on behalf of the Radio Corporation. As to general communications with Mukden the Ambassador said that press and official telegrams were given preference, although, of course, there might be some delay owing to congestion. He said that, although these telegrams went through Japanese authorities, there was obviously no censorship since many of the press messages were very critical of the Japanese.

The Ambassador brought up the question of aeroplane bombing of trains. He said that no bombs have ever been dropped on a train and that no attempt has been made to do such a thing. There appears,

⁸⁷ W. Cameron Forbes, American Ambassador to Japan.

however, to have been a clash between Chinese and Japanese troops near the railway train running parallel to the trouble between the troops. Apparently a Japanese plane did turn its machine gun on the troops. No shots were fired at the train. (This seems to me an extraordinarily weak explanation.)

So far as the Separatist movement in Manchuria is concerned, the Ambassador denies that it is in any way stirred up by the Japanese. He says that, on the contrary, Baron Shidehara has instructed all consuls in the territory not in any way to interfere either for or against any kind of political movement.

The Ambassador said that the most significant news he has heard is that Japanese women and children are being withdrawn from Harbin and Kirin and places outside the railway zone held by Japanese troops. He says that the only possible explanation of this can be that the troops are very shortly to be withdrawn and that, in consequence, it is felt to be unwise to leave Japanese women and children where they may be subject to attack by bandits.

W[ILLIAM] R. C[ASTLE,] JR.

793.94/1963: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 2, 1931—10 a. m.

[Received 1:10 p. m.]

687. Following from Lieutenant Brown, Mukden, to Naval Attaché, Peiping:

"October 1, 11 a. m. Military occupation essentially unchanged with one battalion Japanese forces sent from Tiehling and Kaiyuan to the country districts 70 miles northeast Mukden due to the Sino-Korean-Japanese disorders wherein it is claimed 10 Japanese, 10 Koreans killed with several Korean citizens kidnapped; some 5,000 Chinese forces in that region. Japanese authorities here give much prominence to move of Chinese to form independent Manchurian government, representing this action as desired on part of all classes of Chinese to separate themselves from the other old regime. There is little evidence of any return to normal economic conditions."

JOHNSON

793.94/2122

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With Colonel Manton Davis of the Radio Corporation of America

[WASHINGTON,] October 2, 1931.

Colonel Davis called me from New York by telephone. He said that the Radio Corporation is informed by its agent in Shanghai that the

Chinese Government radio station at Mukden has been examined by a representative of the Radio Corporation and is found to be in such condition that, with a few hours' work it could be prepared again to operate; and that the Japanese are contemplating reopening it under Japanese operation. He said that the Japanese have demanded that they be given a copy of the contract concluded and in effect between the Chinese authorities and the Radio Corporation. (Note: A statement to this effect appeared in the news despatches this morning.)

Colonel Davis asked for advice with regard to complying with the Japanese demand for a copy of the contract. He said that he felt that compliance or non-compliance involved considerations of state. I said that it might be assumed that there were at least two questions involved: first, was there any reason on the part of the Radio Corporation, on the basis of the contract, which would cause the Corporation to desire that the text be not known to the Japanese; second, from point of view of policy, the question would arise whether it is expedient to comply. Colonel Davis said that there was no objection to the text being made known to the Japanese, but he indicated his view that the Japanese had no right to demand that a text be given them.

After some discussion, it was decided that the Radio Corporation should instruct its Shanghai agent to send to the American Consul General at Mukden a copy of the contract, so that a copy might be in the Consul General's hands for disposal in accordance with instructions as and when given.

It happens that the Department had at an earlier hour this morning telegraphed to Mukden asking for a report on the present condition and status of the radio station.

It may be expected that the Department will be informed probably along the lines of the statement made by Colonel Davis as recorded above. If we are informed that the Japanese intend to operate this station (Chinese-owned) and that they have demanded a copy of the contract, it will be necessary to decide (a) whether the Department will authorize the Consul General to communicate to the Japanese a copy of the contract and (b) what attitude the Department will take on the question of retention of control and assumption of operating functions in relation to this station by the Japanese.

793.94/1965 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 2, 1931—5 p. m.

[Received 7:33 p. m.⁸⁸]

691. From Consul General at Nanking.

"October 2, 4 p. m.

1. Following is brief summary of informal conversation held with T. V. Soong September 30, 9 p. m., at his home; the Chinese Government is very apprehensive of a rapidly extending sentiment of friendship for the Soviet Government and of a popular feeling that ordinary diplomatic relations should be resumed immediately as offset to Japanese aggressive designs and to develop effective action by the League of Nations and signatories of the Kellogg Pact which now the Chinese people believe they can no longer hope for. Soong feels that the American Government is in some way accountable for the apparent lessening of the League's first eagerness to bring about an adjustment of the present Manchurian controversy and has been searching for the reason for the failure of the United States, when drafting its identic notes, to point out to Japan the danger of world conflict which may follow Japan's continued use of military force. He considered it probable that the Japanese Ambassador must have convinced the American Government of the rectitude of Japan's intentions and of unwisdom of needlessly wounding the feelings of a sensitive people. Another explanation he finds in the possibility that the Japanese Government gave the American Government some positive assurance that Japan would desist from its present course. The sudden change of position by the head of the British delegation to the League Council he thinks also may be accounted for by some such assurance. He expressed an earnest desire to learn why the United States, as shown by its two communications, seemed to attach so little importance to the Japanese military in Manchuria. He described the steps now being taken by the Japanese to encourage rebellious movements in Kirin and elsewhere and gave me translations of confidential reports from Chang Hsueh-liang reporting machine gun and bombing operations by Japanese airplanes in various places on September 27 and military seizure of railway plant at Huangkutung on September 29. In the meantime he could not account for the 'apathy' of the American Government under these circumstances.

2. To give the conversation a more practical turn I inquired under what conditions the Chinese Government would consent to treat with the Japanese Government for a settlement of the controversy. He said that while the Chinese Government would never admit that Japan had any treaty right to station troops on the South Manchuria Railway he thought China could treat with Japan if all Japanese troops were withdrawn to the railway although even then the Chinese Government would be apprehensive that Japan would introduce irrelevant questions which China would be unwilling to discuss. China would, of course, expect compensation for the unwarranted damage inflicted.

⁸⁸ Telegram in seven sections

3. The two dominant impressions made on me by the interview were that he still hopes that the United States will evince a stronger interest in curbing Japan's warlike measures than the United States has hitherto shown and, secondly, that he deeply feared a popular swing toward Soviet Russia. He remarked that China for defense against Japan must place reliance either on her own military strength, on intervention by the League, the signatories to the Pact (principally the United States), or on the Soviet Government. These views seem to be held by Chinese generally. I should add that Soong is very anxious lest popular resentment among the Chinese may precipitate actual hostilities and he instanced the killing of Japanese in Hong Kong.

4. Soong appeared grateful when I said I would telegraph his remarks in substance, and that presumably you would transmit them to the Department of State. He again expressed his hope that I might be able to obtain for him some additional insight into the Department's attitude toward events in Manchuria."

5. Frank W. Lee since September 30 Acting Minister of Foreign Affairs called on me at the Legation. He outlined general situation much as Soong had done but the main object of his call evidently was to reiterate the hope of the Chinese Government that the United States still would issue some public statement, stronger than the identic notes, supporting the justice of China's position via [*vis-à-vis*] Japan in Manchuria. He called attention to the fact that 'The United States has a historical position with respect to Manchuria', and he made specific reference to the statement made by the Department of State at the time when the Japanese Government formally forbade Chinese internal conflicts in Manchuria. He said that the Department's statement had a most salutary effect at that time.

6. I pointed out that it might be necessary to recognize a general deadlock as regards situation and I repeated to him the question I asked Soong regarding the circumstances which might make it possible for China to talk with Japan. Dr. Lee told me, quite as though the matter had been in his mind, that in default of action by the League China would be willing to commence negotiations with Japan under circumstances similar to those of the Washington Conference discussions at which Great Britain and the United States had observers but that withdrawal of Japanese troops to the railway area would be a prerequisite to such negotiations. Dr. Lee was positive that the Chinese Government having entrusted the protection of its rights to the League of Nations would await exhaustion of possibilities in that direction before adopting any other course. At the same time, he emphasized his earnest hope that the American Government in keeping with precedent and its past policies would take some independent action in support of China's rights and thus save China from being coerced by circumstances either into a disastrous war with Japan or a dangerous alliance with Russia. I told Dr. Lee I would report the substance of his remarks to the American Minister.

7. Dr. Lee incidentally deplored the fact that China had no Minister in Washington, seemed to feel that the free access enjoyed by the Japanese Ambassador to the Secretary of State must have had a powerful influence on the attitude taken by the American Government in regard

to this controversy. I inquired when W. [W.] Yen, the Minister designate, would go to Washington and Lee replied that that date had not yet been fixed.

JOHNSON

793.94/2148

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*⁶⁹

[NANKING,] October 2, 1931.

It is reported that Japan incites Manchuria to set up a new government and to establish a republic in a movement having for its object secession from the National Government. She makes use of an organization formed by a certain Yuan Chin-Kai, under the name of an "Association for the Maintenance of Order in Manchuria", as the central directing authority for the new Northeastern political uprising.

It is also reported that Kirin has abolished the commission form of government though this report is not confirmed. As the territory is under Japanese military control Japanese authorities can do just as they please. If this report is true then it is done under compulsion.

Today the Special Committee on Foreign Affairs has passed a resolution declaring that before the formal return to China of the places and cities occupied by Japan, the acts of all the unauthorized organizations in various places, shall be laid to the charge of the Japanese Government and shall not be recognized by the Chinese Government.

793.94/1961 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, October 2, 1931—7 p. m.

[Received October 2—9:45 a. m.]

693. The Consul General at Mukden telegraphs today at 10 a. m. in regard to the independence movement that there is good reason to believe this movement is being misrepresented by Japanese reports.

It has been ascertained from Yuan Chin-kai that he has been urged repeatedly by Japanese military authorities to organize an independent government; that he has refused to do this; that others may also have been approached; and that the Japanese aim to eliminate the influence of Chang Hsueh-liang.

The movement must be taken seriously because of the Japanese efforts and of the possible willingness of some Chinese to make use

⁶⁹ Copy of telegram handed by the Chinese Chargé to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on October 5, 1931.

of the opportunity. The Civil Governor of Liaoning (Fengtien) Province, to whom the government could be turned over by the Japanese if they wished, is under detention.

JOHNSON

793.94/1967 : Telegram

The Consul General at Mukden (Myers) to the Secretary of State

MUKDEN, October 3, 1931—1 p. m.

[Received October 3—2:54 a. m.]

Referring to Department's telegram of October 2nd [, 10 a. m.]⁹⁰ Radio station held by Japanese authorities who report it undamaged. Repeated representations to Japanese Consulate relative to reestablishment of service fail to elicit more than statement that the Japanese authorities are considering the matter. Only facility for communication outward is the Japanese telegraph.

MYERS

793.94/1979a : Telegram

The Secretary of State to the Chargé in Japan (Neville)

WASHINGTON, October 3, 1931—2 p. m.

181. The Chinese Government radio station at Mukden was seized by Japanese forces at an early stage in the operations which began on the night of September 18. It has been held, apparently inactive, by them ever since, thus interfering with communications. Consul General Myers reports that repeated representations to the Japanese Consulate relative to reestablishment of service have elicited nothing more than a statement that the Japanese authorities are considering the matter. The only facility for communication with Mukden is the Japanese telegraph.

Please confer with Foreign Office stating that it is my understanding that this station is a Chinese Government utility, it constitutes an important terminus of circuits the other termini of which are in several countries, including Japan, China and the United States, it is my feeling that it should not have been interfered with, and it is my hope that it will be speedily reopened under conditions which will insure general service by it as a public utility. I believe this to be in the best interests of all concerned.

STIMSON

⁹⁰ Not printed.

793.94/1994

Memorandum by the Secretary of State

[WASHINGTON,] October 3, 1931.

I sent for the Japanese Ambassador. When he came he told me first that he had decided to stay longer here because, although it was very inconvenient to him, he felt that it was important that he should be here. I thanked him and said that I was considering sending Mr. Forbes back at once to Tokyo, but that he could not arrive for a month and in the meanwhile I should be very glad to have Mr. Debuchi here.

I told the Ambassador that I had received some messages, all of them from my own people, which I thought would be of interest to his government. I told him that Consul General Myers was now back in Mukden and one of these messages was from him. I pointed out to him how I had under close observation these autonomous outbreaks in Manchuria because the Chinese were making accusations that these were instigated by the Japanese. I told him that Myers had now cabled me that the Governor of the Province of Liaoning, of which Mukden is the capital, is being detained by the Japanese although they could if they wished turn over the Government to him. The Ambassador replied that he had been officially informed by his government that no important Chinese officials were under detention and he thought this statement must be incorrect, but he would at once inform Baron Shidehara.

I then told the Ambassador that I had received a long cable from Minister Johnson in China in which he reported a conference which the American Consul General at Nanking had had with Mr. T. V. Soong, during which Soong had expressed the opinion that he thought China would treat directly with Japan if all Japanese troops were withdrawn to the railway zone.

I then said that Mr. Johnson himself reported that he had been visited by Mr. Frank W. Lee, the present Acting Minister of Foreign Affairs, at which time Mr. Lee had made the same suggestion: namely, that China was willing to commence direct negotiations with Japan but that the withdrawal of the Japanese troops to the railway area was a prerequisite condition. Mr. Debuchi at once said he thought that that condition was reasonable and he said that he had already advised Baron Shidehara, who was his personal friend, that the Japanese troops should be at once withdrawn to the railway zone. I then said to him that of course I was not attempting to meddle but I thought that this was information which Baron Shidehara would be much interested in. I summed it up as follows:

First: The American Secretary of State has already informally suggested to the representatives of the League of Nations that China and Japan should be allowed to settle their trouble by direct negotiations—that being in accordance with the customs of the Orient—and the Japanese Government has expressed itself as very grateful for that suggestion.

Second: That now the Finance Minister of China, Mr. Soong, who is known as one of the most able and responsible members of the Chinese Government, and Mr. Lee, the Acting Foreign Minister, have each made the suggestion that China would be willing to thus negotiate directly with Japan provided the Japanese troops were withdrawn to the railway zone first.

Third: That the Japanese Ambassador himself thinks that that condition is not unreasonable.

Mr. Debuchi laughed and referred back to the time when he was Foreign Vice Minister and Baron Tanaka as Premier had intervened in Shantung, saying that he had urged most strongly upon Tanaka the immediate withdrawal of the Japanese troops from Shantung but that it took two months for him to do it. He said that of course withdrawals take time and there is the danger of bandits imperiling the lives of Japanese if the Japanese troops are withdrawn prematurely. I replied that withdrawals were always difficult and that such reasons were always given by the military authorities but they must be weighed against the big advantages of an immediate withdrawal unless otherwise a greater catastrophe occur. Speaking frankly, I told him I thought they ought to get out at once. He said that I knew already that Baron Shidehara had greatly appreciated my friendly action in the beginning of this trouble and that any suggestion of mine would be received by him with great weight and this would go to him at once.

H[ENRY] L. S[TIMSON]

793.94/1981a : Telegram

The Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, October 3, 1931—5 p. m.

358. You should inform the Chinese Government through the Consul General at Nanking that Hanson and Salisbury are being dispatched on an observation tour in South Manchuria.

STIMSON

793.94/1985a : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, October 3, 1931—5 p. m.

182. I talked this morning with the Japanese Ambassador. On the basis of reports received from American representatives in China, I told Debuchi that it is my belief the Chinese will be ready to negotiate as soon as the withdrawal of Japanese troops within the railway zone has been completed. Debuchi said he regarded this condition as not unreasonable. I then summarized my efforts, the evidence of Chinese willingness to negotiate after withdrawal of Japanese troops and Debuchi's affirmation, and I said, speaking frankly, that I thought the Japanese troops should get back into the railway zone immediately. Debuchi said he would at once report this conversation to Shidehara. You may urge this viewpoint upon Shidehara in your conversation with him.

Inform Peiping.

STIMSON

793.94/1958 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 3, 1931—5 p. m.

63. Your 151, October 1, 10 a. m. Either you or Minister Wilson should inform Drummond confidentially that there proceeded to Manchuria immediately upon outbreak of the trouble there an officer from the Peiping office of the American Military Attaché and another, who was present in China at that time, from the Tokyo office of the American Military Attaché. A similar officer is understood to have gone likewise from the British Legation at Peiping. Reference to their going to Manchuria was not made to Washington for either authorizations or instructions, and the officers are assumed to have acted simply as observers. However, the Department is now instructing the Consul General at Harbin and an Embassy secretary from Tokyo to undertake an observational tour in South Manchuria and to report facts to the Department. This is being done with the knowledge and approval of the Tokyo Government. I feel it to be necessary for me to have information as accurate and as full as can be obtained as to what occurred and as to the unfolding situation. This information should be regarded as confidential pending such time as it is given authorized publicity here.

STIMSON

793.94/1974: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 4, 1931—8 a. m.
[Received October 3—11:52 p. m.⁹¹]

697. Following telegram has just been received from the Acting Minister of Foreign Affairs in Nanking dated October 3d:

"The Chinese Government has the honor to inform Your Excellency that in its view events of the next 12 days during which the Japanese Government is expected by the Council of the League of Nations to complete the withdrawal of its troops to the railway zone in terms of the Council's resolution of September 30th, will have the most far-reaching consequences for the effective maintenance of peace and the present status [of] the Chinese in the Far East.

On its part the Chinese Government has undertaken before the League's Council to assume responsibility for the safety of the lives and property of Japanese nationals outside the railway zone during the process of withdrawal of Japanese troops and the reestablishment of Chinese local authorities and police forces.

The difficulties of this task are immeasurably increased by the situation created by the Japanese action which has violently disturbed the machinery of central control in Manchuria. Every day brings fresh incidents such as aerial attacks on trains, disarming of isolated Chinese units, imposing of Japanese military authorities on various localities, et cetera.

Your Excellency is aware that the Council of the League resolved, in the absence of any unforeseen occurrences which might render an immediate meeting essential, to convene at Geneva on Wednesday, October 14th, in order to consider the situation as it then stands, and that information with regard to the development of the situation is awaited not only from the Chinese and Japanese Governments but also from other members of the Council.

Under all the circumstances as stated, the Chinese Government has requested the diplomatic representatives in this country of those powers which are members of the Council of the League to send individual representatives to Manchuria to collect information on the progress of evacuation and all relevant circumstances for the information of the Council. In view of the fact that the United States of America is one of the signatories of the Treaty for the Renunciation of War signed at Paris in 1928 and is [as] deeply interested as the other powers in the effective maintenance of police [*peace?*] in the Far East, I have the honor to request that the United States take immediate steps to be likewise represented and that information collected by your representatives on the movements of Japanese troops in Manchuria be transmitted to your Government and the general public by telegraph.

On its side the Chinese Government will do its utmost to give all facilities to the representatives of Your Excellency in this most important task. The Chinese Government would be grateful if the present request were considered to be of the extreme urgency. General Chang Hsueh-liang has been instructed by the National Government to take

⁹¹ Telegram in four sections.

all the measures to help your representative[s], and the Chinese Government will be grateful if Your Excellency would communicate to him the names of your representatives.

Chinglun Frank W. Lee, Acting Minister for Foreign Affairs, October 3d."

JOHNSON

793.94/1975 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, October 4, 1931—9 a. m.

[Received October 4—12:41 a. m.]

698. Your 358, October 3, 5 p. m., was repeated this morning to the Consul General at Nanking with instructions to avoid giving the impression of its being in response to the Chinese request which was forwarded in my 697, October 4, 8 a. m.

JOHNSON

793.94/2147

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*⁹²

[NANKING,] October 4, 1931.

On October 3rd President Chiang Kai-Shek telegraphed to Marshal Chang Hsueh-Liang to designate commanders of Chinese troops in various districts in Manchuria who are to receive the transfer of territories vacated by Japanese troops, and to assume all responsibility for the establishment of law and order in those places disturbed by Japanese troops.

793.94/1979 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 5, 1931—9 a. m.

[Received 11:50 a. m.]

702. Following from Mukden:

"October 3, 8 a. m. Japanese forces entered Chinese city of Newchwang at 2:15 this morning from Yingkou following bandit attack on the city."

JOHNSON

⁹² Copy of telegram handed by the Chinese Chargé to Mr. Ransford S. Miller

793.94/1983 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 5, 1931—10 a. m.

[Received 11:50 a. m.]

703. Following from Consul General at Nanking, October 4, 11 p. m., is a summary of statements made to him by Tai Chi-tao, chairman of Foreign Affairs Committee handling Sino-Japanese controversy:

"In a logical and convincing argument Tai Chi-tao demonstrated that:

(1) Japanese military measures in Manchuria were culmination of long methodical planning by the military party to make a desperate effort to regain popular favor and retain authority by achieving spectacular gain for the Empire;

(2) that this carefully fostered public opinion in Japan now supports the militaristic;

(3) that the success of this policy will confirm present opinion in Japan;

(4) that it is futile to expect that Japan will abandon this militaristic policy before October 14 or that China could enter into discussions with Japan, with the intention of surrendering everything;

(5) that popular support in Japan is vital necessity for the continuance and success of the militaristic policy and;

(6) that an explicit statement condemning Japan's military measures in Manchuria as violating China's moral and legal rights, if statement were issued by the League of Nations or by powerful countries like the United States and Great Britain, would destroy confidence felt in this policy by the Japanese people and thus cause its failure. Tai Chi-tao pointed out necessity of justifying faith of China's thinking classes in international guarantees of justice, by [as?] loss of this faith will powerfully augment the trend toward communism and chaos in China."

JOHNSON

793.94/1978 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, October 5, 1931—4 p. m.

[Received October 5—9:50 a. m.]

175. Department's 181, October 3, 2 p. m. I saw the Vice Minister for Foreign Affairs today. He told me that Baron Shidehara was unable to see me as the new Chinese Minister was presenting his credentials and the Foreign Minister was in attendance at the Court for the occasion. I asked Mr. Nagai if that meant that the Chinese were prepared to negotiate. He said that he hoped so but that so far there had been no indication of it.

I then asked him what the situation was in Manchuria. He told me that the Japanese were gradually drawing their troops inside the railway zone and that this policy would be continued. He said that they felt that it was impossible to draw them all in immediately, as there was no adequate police protection in some places. He said that the Japanese were now as always prepared to negotiate with the Chinese but that up to the present the latter had refused to do so. Until some new development took place, the Japanese Government was of the opinion that the only course to follow was one of calm waiting.

He said that in Manchuria women and children were being brought into the railway zone and it looked as if conditions were settling down and the Japanese Government hoped they would soon be peaceful and that matters could be cleared up by discussion. I asked him what matters would be discussed. He said it would depend largely upon the personnel of whatever commission might be appointed. I asked him whether he expected to clear up all the pending questions. He said that would hardly be possible as there were so many individual claims. In reply to my question he said they hoped to settle in principle a number of outstanding questions. I gather, although he did not say so directly, that the Japanese hope to settle a number of things, such as the Korean trouble with land, land rights and similar matters and let the individual cases be settled locally in accordance with the principles laid down by which negotiations may take place.

He then said that conditions in the Yangtze Valley were causing much anxiety, the boycott has affected the Japanese seriously, and it has been necessary to bring Japanese families into Hankow and similar large centers for protection. I am inclined to think that the Japanese merchants and traders in the Shanghai and Hankow region have been urging a speedy settlement on their Government, as Nagai told me that the Foreign Office had been receiving a number of protests from Japanese in Shanghai that the Government's course was not helping them and that they were losing business very fast. I asked him if this situation was new. He said that to a certain extent it was chronic but that the Manchurian incident had undoubtedly helped to make it acute. He said that Japanese business was suffering badly.

Before I left he told me that he would look into the question of the wireless station and the reasons if and why it is kept idle. He admitted that closing it to us did not seem reasonable.

I left the Foreign Office with the distinct impression that, (1) the Japanese do not at present intend to do anything in Manchuria until they have heard from the Chinese, that they will not pull their troops back into the railway zone until they have some sort of assurance of the safety of Japanese life and property there, and, (2) that the

general condition of Japanese in China is causing the Government here much anxiety, especially as the jingo element is becoming noisy.

Repeated to Peiping.

NEVILLE

793.94/1984 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 5, 1931—6 p. m.

[Received October 5—11:50 a. m.]

707. Legation's 697, October 4, 8 a. m. At a meeting this afternoon of Chiefs of Mission whose Governments are members of the Council of League of Nations and which I attended as a friendly observer the note of the Chinese Government was discussed. Most of those present felt that the situation growing out of the events in Manchuria was fraught with serious possibilities and that the Chinese proposal should therefore not be lightly dismissed. However, inasmuch as the League had abandoned the idea of a commission it would be very difficult for the interested Governments to comply without appearing to take sides. I informed my colleagues in confidence of the despatch of Hanson and Salisbury with the knowledge of the Japanese and that the Chinese Government had been advised thereof, it having been made clear that this decision had been reached prior to and not in response to the Chinese proposal.

JOHNSON

793.94/1974 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 5, 1931—2 p. m.

361. Your 697, October 4, 8 a. m. Please reply to Acting Minister for Foreign Affairs substantially as follows:

"I have the honor to acknowledge the receipt of your telegram of October 3 informing me that the Chinese Government has requested the diplomatic representatives in this country of those powers that are members of the Council of the League to send individual representatives to Manchuria to collect information on the progress of evacuation and all relative circumstances for the information of the Council, and requesting that, in view of the fact that the United States is one of the signatories of the Treaty for the Renunciation of War signed at Paris in 1928, the United States take immediate steps to be likewise represented.

I am instructed, in reply, to state that the American Government has noted with gratification the action, to which the Chinese Government refers, of the Council of the League of Nations, on which Council both the Chinese and the Japanese Governments are repre-

sented, as expressed in the Resolution unanimously adopted by the Council on September 30; that it has noted the undertakings therein set forth of the various governments represented and of the Council itself, including the provision for the gathering and supplying of information by the Chinese and the Japanese Governments. With regard to the Chinese Government's request that the American Government send representatives to collect information, the American Government is happy to be able to state that it has already taken steps to supplement the efforts which have been made by its representatives in the Far East to keep it currently informed with regard to developments in this situation. Among these steps, it has recently issued instructions for the sending of two of its officers on duty at other points in the Far East to South Manchuria, to travel in that region, to observe, and to report to their Government on the facts as they find them; and, on October 3, before receipt of the Chinese Government's request, it had instructed the American Minister to China to inform the Chinese Government of its action in that sense. Its instruction has, as your Excellency knows, been carried out.

The American Government had thus anticipated the Chinese Government's request and it is confident that the Chinese Government will regard this action on its part as another evidence of its desire to make its due contribution in the common effort which is being made to ensure reliance on peaceful methods for the settling of this dispute which is clearly a matter of concern to the whole world".

STIMSON

793.94/1958 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 5, 1931—2 p. m.

64. Your 150, October 1, 9 a. m., and 151, October 1, 10 a. m. I am much gratified over the Council's success in having obtained the consent of its resolution of September 30 from both the Chinese and Japanese Governments, over the Japanese Government's commitment to withdraw its troops into the South Manchuria Railway zone, and over the Chinese Government's commitment to protect Japanese nationals thereafter. I desire Drummond to be told confidentially that I am working daily on this matter; that I am urging the Governments of both China and Japan to assert themselves to the utmost in order that a recrudescence of armed encounters be avoided; and that I have urged the Japanese to withdraw their forces immediately into the railway zone. I shall urge upon both China and Japan the necessity of carrying out the commitments in good faith as expressed in the Council's resolution.

I believe that American cooperation in handling this difficult matter hereafter should be along the course followed ever since the League

Assembly and Council were found in session, fortunately, upon the first outbreak of the Manchurian trouble. This matter has been deliberated long and earnestly by the Council, and well-tried machinery is provided by the Covenant of the League of Nations to handle such issues. Before the Council there have been presented and argued both the Chinese and Japanese cases, and published accounts have informed the world with regard to the proceedings of the League. Conclusions have been formulated and a course of action for the disputants to follow has been outlined by the Council; and it is most desirable, since commitments have been made by the said disputants to the Council, that the League shall in no way relax its vigilance nor fail to assert all the authority and pressure within its competence in order to regulate Chinese and Japanese action in the premises.

This Government, acting independently through its representatives abroad, will on its part endeavor to reinforce League action and will make clear that the American Government's interest in the matter has not been lost and that this Government is not oblivious to the obligations assumed by the disputants to their fellow signatories in the Kellogg-Briand Pact as well as in the Washington Nine-Power Treaty should a time arise when the bringing forward of these obligations would appear advisable. By this course the United States avoids any danger of encouragement to either disputant to attempt playing off American action against League action or vice versa.

Drummond has already been informed that my own special representatives are present in the disturbed area, and I shall gladly comply with his suggestion that this Government forward to him any pertinent information which it may be able to make available for the purpose.

I think Drummond's other inquiries will have been answered by what I have said already. This Government will endeavor to cooperate as much as possible, at the same time trying to avoid giving him and the League any embarrassment in the task they have undertaken.

STIMSON

793.94/1094a : Telegram

The Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, October 5, 1931—3 p. m.

362. Department's 360, October 4, 2 p. m.⁹² You should instruct the Consul General at Nanking, in the light of information which you have sent him and of the Department's 361, October 5, 2 p. m. (replying to your 697, October 4, 8 a. m.), to inform T. V. Soong and Vice Minister Lee, informally and orally, that this whole subject is continuously

⁹² Not printed.

being given the Department's solicitous and careful attention in the light of all obtainable information; that, although the United States has not been in a position to identify itself formally with the League's deliberations and action, this Government nevertheless has been informed constantly of the League's views and efforts and has cooperated along parallel lines so far as possible with the League; that this Government has been gratified to note the adoption of the resolution by the League Council at its final meeting September 30, accepted as it was by both China and Japan; that this Government is convinced of the desirability at the present juncture that both China and Japan should be given a fair opportunity to carry out by themselves in good faith and in a mutually reasonable and conciliatory spirit their respective commitments duly expressed in the September 30 resolution; that this Government earnestly hopes that the Governments of both China and Japan will make every effort possible in this connection; and that the same sense is being expressed here in conversations with representatives of Japan.

Repeat as Department's 183 to the Embassy in Japan for its guidance and information.

STIMSON

793.94/1994a : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 5, 1931—6 p. m.

363. The Department's 330, September 19, 3 p. m.⁹⁴ The Department feels that it would be advantageous and would simplify communication for you to be during the next few weeks in Nanking.

Unless you perceive and wish to report reasons *contra*, please proceed to Nanking at earliest possible moment. Report date of starting, estimated date of arrival and arrival and names of persons accompanying you.

STIMSON

793.94/2358

*The Consul General at Mukden (Myers) to the Minister in China (Johnson)*⁹⁵

No. 454

MUKDEN, October 5, 1931.

SIR: I have the honor to submit for the Legation's information the following brief report on the immediate effects which the recent

⁹⁴ Not printed.

⁹⁵ Copy transmitted to the Department by the Consul General in his despatch No. 43, October 6; received October 28.

Japanese military occupation of certain areas of southern Manchuria has had upon American interests therein.

Preliminary to an enumeration of the cases where American interests have been affected, it is relevant to state that prior to the incidents of September 18th and 19th which resulted in the military occupation by the Japanese army, American business concerns, although sharing the general uneasiness concerning Sino-Japanese relations in Manchuria, were unprepared for the drastic move by the Japanese which has resulted in the paralyzation of the economic life of this territory. Furthermore, up to the present there has been no attempt on the part of local Japanese consular or military authorities, either officially or unofficially, to clarify the present unusual situation by giving the regime under which most of the cities of south Manchuria are now controlled a temporary *de facto* status of any kind. Military occupation, the term which seems most logically to describe the situation obtaining, has been denied by the Japanese. A state of warfare does not exist and yet public and private property (of the latter both Chinese and foreign) has been seized and is still being held more than two weeks after the incidents which precipitated the Japanese occupation. To date, this Consulate General has received no notification from the Japanese Consul General attempting to regularize these actions or to explain why (1) Japanese soldiers with fixed bayonets should be patrolling the streets in front of the Consulate General on the morning of September 19th and subsequently, (2) labels or certificates of identity were necessary for consular servants in order that they might pass through the streets unmolested by Japanese soldiers, (3) consular officials should be stopped in the Chinese city by Japanese soldiers and made to identify themselves, (4) requests should have to be made of the Japanese military authorities for Americans to visit such places as the Mukden (Chinese) radio station, the Chinese aviation field, arsenal, railway station, and other places, or (5) why, to put it broadly, the Japanese military authorities should have to be approached, through the Japanese Consulate General, concerning practically all matters which prior to September 19th came within the province of Chinese officials.

This Consulate General has had, perforce, to recognize the existence of this unusual situation and adapt itself thereto as occasions arose which required action of one sort or another. The fact, however, that there has never been any official notification of an establishment of control by the Japanese has made it difficult to judge just where assumption might become presumption with respect to placing responsibility.

One of the first effects of the occupation by the Japanese military was requests from American firms for some form of identification

for their Chinese employees in order to permit them to travel to and from their work without being molested by Japanese patrols. The Japanese Consulate General issued a paper in Japanese to each Chinese employee named on the various lists sent them, stating his occupation, et cetera. These documents were, in the main, necessary and effective.

On September 21, the Consulate General received a letter from Andersen, Meyer and Company, requesting that appropriate action be taken, in view of the unsettled conditions, to protect its interest, amounting to over \$200,000 (U. S. currency) in unpaid accounts, in a number of Chinese government and semi-government concerns. The firm further requested advice concerning the action it should take with respect to large orders of materials for Chinese concerns which were en route to Mukden. On September 29, the firm again wrote to this Consulate General stating that the Antung (Chinese) Electric light plant, in which it has a large interest in the form of machinery unpaid for, had been closed on September 22 by order of the Japanese military authorities, and requesting the Consulate General to request the Japanese for a statement of their intention with respect to the plant and of the date when it might be returned to the Chinese owners.

Acting upon Andersen, Meyer and Company's first request, the Consulate General informed the Japanese Consul General, in general terms of the American Company's interest in the Chinese government and semi-government organizations and requested him to take what action he deemed appropriate, "in view of the unusual situation obtaining in certain areas of south Manchuria" (the term which this Consulate General has found it convenient to use for want of a more exact one), to insure the protection of the American interest in the organizations. In compliance with the Company's second request, the Consulate General expressed to the Japanese Consul General its concern, on behalf of the American company, over the future of the Antung Electric Light Company, inviting his attention to the obvious fact that the closure of the plant by the Japanese made it impossible for the company to meet its obligations to Andersen, Meyer & Company. No reply has been received to either communication. Andersen, Meyer & Company was informed in reply to its request concerning shipments en route to Mukden that the Consulate General was not in a position to give definite advice on the subject but that it was of the opinion that the retention of such shipments at Dairen when possible would be advisable.

It is instructive to note, with respect to the closure of the Antung (Chinese) Electric Light Company, that since the opening of this company a year or so ago, there has been a continuous feud between

it and the old established South Manchuria Electric Light Company of Antung, which prior to the opening of the Chinese plant had a monopoly for the supply of electric current and power in Antung. The arbitrary closing of the Chinese plant has no justification as a military or protective measure and can only be explained as an attempt by the South Manchuria Railway, supported by the Japanese military authorities, to take advantage of the present unsettled conditions to further its commercial interests.

At the request of the Standard Oil Company which had heard of reports of possible danger to its large godown at Antung, the Japanese Consul General was notified on September 23, of the approximate value of the godown stocks and requested to take appropriate measures to insure the protection of the American property. Although no reply has been received to this communication, the Japanese Consul General has verbally informed an officer of this Consulate General that the Japanese military authorities were being requested to afford adequate protection.

On September 21 and 22, the Consulate General received letters from Frazar, Federal Incorporated, requesting in the first that the Japanese military authorities be notified of its substantial interest in motor buses of a Chinese company which had been seized by the Japanese army occupying Newchwang, and in the second that a protest be entered against the seizure without payment by Japanese soldiers of gasoline at the company's office in Mukden and against the forced occupation of the office for a part of a day also by Japanese soldiers. The Consulate General made representations to the Japanese Consul General in both instances, stating with respect to the latter case that it was convinced that the situation obtaining did not justify the seizure and occupation of American property. Replies have not yet been received but the Consulate General has been advised by Frazar, Federal Incorporated, that the trucks have been returned to the Chinese company and that the Japanese military authorities have promised to pay for the gasoline taken.

On September 24, the Consulate General received a letter, delivered in person, from Mr. George F. Shecklen, China Representative of the Radio Corporation of America, requesting that this office obtain from the Japanese authorities a statement as to whether the Mukden (Chinese) Radio Station was maintaining service with San Francisco and if not, what steps were being taken to resume service. He further requested that the Japanese during their occupation be asked to protect the receiving, sending, and central control stations from damage. As the Legation is aware, the Mukden Radio Station was built with Radio Corporation of America materials and assistance. Although the Radio Corporation of America has no financial interest now in the

physical plant, its service (or traffic) agreement with the Northeastern Telephone, Telegraph and Radio Administration for radio communication between Mukden and San Francisco gives it a vital interest in the operation and welfare of the Chinese station.

An officer of this Consulate General delivered in person a communication to the Japanese Consul General on the subject. The Consul General stated orally, in reply to Mr. Shecklen's inquiries, that service was not being maintained and that he could not say when it might be resumed but that he would approach the Japanese military authorities with the matter. Later he replied by despatch, requesting a copy of the Radio Corporation of America's agreement with the Northeastern Administration. This Consulate General is of the opinion that the present situation does not warrant the Japanese in requesting a copy of an agreement between an American corporation and a Chinese government organization and has informed Mr. Shecklen by telegraph to Shanghai and an officer of the Japanese Consulate General orally of its position.

The present status of the case may be stated briefly by quoting this Consulate General's telegram of October 3 to the Department: "Referring to the Department's telegram of October 2, 10 a. m.⁹⁶ Radio Station held by the Japanese military authorities who report it undamaged. Repeated representations to Japanese Consulate General relative to the reestablishment of service fail to elicit more than statement that the Japanese military are considering the matter."

Yesterday (October 4) an officer of this Consulate General visited the transmitting plant and the central control office of the Mukden Radio Station. At the former place he found that the Japanese soldiers had been withdrawn, leaving only a few Chinese watchmen who admitted their inability to protect the plant from the large numbers of Chinese robbers who are operating in and about Mukden. However, the transmitting equipment appeared to have been undamaged. Its state of preservation was in marked contrast to the condition of the Three Eastern Provinces Radio Station (long wave—German equipment) which had been very badly demolished by the Chinese as they evacuated the place, according to the Japanese. At the central control office, there was found billeted a detachment of Japanese soldiers, with machine gun and rifle equipment. The Japanese non-commissioned officer in charge stated that the equipment was broken but it is believed that he made this statement simply to support his point that messages could not be transmitted, as the Consulate General has had assurances from the Japanese Consul General that the equipment is not damaged.

The local Chinese representative of The L. E. Gale Company called at this office on September 25 and requested that it obtain information

for him concerning a Waco aeroplane, the property of The L. E. Gale Company, which had been brought to Mukden for demonstration purposes and was at the Chinese aerodrome on September 19. The Japanese Consul General was requested to notify the Japanese military authorities that the Waco plane was American owned and of the fact that the American owners were planning to fly it to Shanghai as soon as repairs could be made to the engine. Yesterday an officer of my staff requested permission to visit the aerodrome for the purpose of ascertaining the condition of the American plane. This permission, at first granted orally, was refused today by letter just before the visit was to be made, the reason given by the military authorities being that they had had trouble with Japanese newspaper correspondents visiting the aerodrome and arsenal—a very feeble reason in the opinion of this Consulate General.

McDonnell and Gorman, a firm of American engineers and building contractors, informed this office on September 26th by letter of the fact that they were building in the walled city a residence and office building for General Chang Hsueh-liang, payments on which did not cover the materials which they had put into the construction. The Japanese occupying the property had removed six scaffolding poles which the firm requested this Consulate General to endeavor to recover. Later the firm further requested that permission be obtained for the removal from the site of certain building materials not yet incorporated into the buildings, on the grounds that it wished to protect its equity in the buildings in so far as possible and to lessen the danger of losses by fire and theft. The firm's loss and its desire with respect to the removal of the materials was brought to the attention of the Japanese Consulate General which promised to take the matters up with the military authorities with a view to securing reimbursement for the poles and permission for the removal of the materials.

In addition to the cases enumerated above, there are others including a request from the Chinese Engineering and Development Company that the Japanese authorities be notified of a substantial sum of money due the firm by the Chinese Trench Mortar Arsenal which has been closed by the action of the Japanese and is now occupied by Japanese soldiers, a letter from the Aeronautical and Engineering Company requesting that the Japanese be notified of certain aircraft instruments, the property of the Pioneer Instrument Company of Brooklyn, N. Y., which were at the Chinese aerodrome for demonstration purposes when it was occupied by the Japanese, a statement from the Automatic Telephones of China, Federal Incorporated, giving its outstanding accounts with Chinese public service companies in Manchuria payment of which it fears may be jeopardized by the Japanese occupation, and a claim from the Texas Company for small losses due in part to damage from rifle fire on the night of September 18th and to inter-

ference from the Japanese military with respect to taking delivery of cargo. These and similar cases are either being reported to the Japanese Consulate General or are being filed for possible future reference, depending upon their nature.

On October 1, the Consulate General received a letter from The Manchurian Mission of Seventh-Day Adventists stating that the Mission had on deposit in the Frontier Bank a sum of over fifty thousand dollars (Chinese currency) which it is unable to utilize due to the closing of the bank by the Japanese, and requesting that this office make representations to the Japanese with a view to making it possible for the mission to draw on its account. The Mission added that its inability to secure funds made it liable to a loss of approximately \$8,000 for failure to fulfill its part of an agreement with a building contractor who is constructing a hospital for the Mission. The Consulate General communicated the Mission's case to the Japanese Consul General, requesting that arrangements be made as soon as possible for the Mission to draw funds against its account.

Today the Consulate General is in receipt of a request, somewhat similar in nature to the above, from the Texas Company. The Company states that it at present holds and is daily receiving drafts drawn on accounts in the Bank of the Three Eastern Provinces and the Frontier Bank which it is unable to cash due to the action of the Japanese military authorities in keeping the two banks closed and their funds under custody, and requests the Consulate General to secure a statement from the Japanese of what action they are taking to make it possible to cash drafts on the aforementioned banks. The Consulate General expects letters from other American firms in Mukden which hold drafts on the Bank of the Three Eastern Provinces and the Frontier Bank, requesting similar information.

The National City Bank of New York, which has large silver deposits in the two Chinese banks, has protested directly to the Japanese Consulate General against the prolonged closure of the banks and has requested that steps be taken to allow it to withdraw its deposits if the banks are not to be reopened soon. The National City Bank has quite naturally been very adversely affected by the situation. A large part of its business is with foreign firms selling to Chinese government and public service organizations. It is liable to substantial losses through business which it has financed involving orders placed by Chinese organizations which are now, practically speaking, non-existent and therefore incapable of taking delivery. A very large order which the Chinese arsenal placed some time ago with a foreign firm for a special type of machinery will illustrate the Bank's difficulties. The Bank financed the transaction on a twenty-five per cent basis. The machinery is now at Newchwang and the purchaser, the

arsenal, is unable to take delivery. The return value of the machinery is hardly twenty-five per cent of its invoice value. The Bank stands to lose the difference. These and other cases, not to mention concern over the future of business in south Manchuria, are the problems of the National City Bank.

The closing of the Frontier Bank and the Bank of the Three Eastern Provinces by the Japanese military authorities has had, and promises to have, a very serious effect upon the business and economic life of southern Manchuria. These two banks are responsible for practically the entire bank note issues in circulation in Manchuria, and the financing connected with the marketing of the agricultural produce of this area is almost entirely in their hands. The other two Chinese banks, the Bank of China and the Bank of Communications, play very little part in domestic financing and are not prepared to do so.

The financing of this autumn's harvest presents a very serious problem if the banks are not opened soon. The Japanese claim the opening of the banks now would seriously endanger the holders of their bank notes and even the continued existence of the banks because of insufficient silver reserves and securities. The fact remains, however, that the bank notes of these two banks were accepted at very little below Shanghai par prior to the occupation of Manchuria by the Japanese. If, as reported, the Japanese have taken that part of the silver reserves which they could identify as belonging to the Northeastern government officials it is quite probable that the opening of the banks now would result in a run and the collapse of their note issues unless, as has been suggested, the Japanese banks in Mukden take steps to support them with ample credits. There is also the possibility that the two banks will be kept closed and that the Japanese banks, perforce, will have to take over the remunerative task of financing southern Manchuria and furnishing it with bank notes.

In conclusion, it should be stated that the general economic paralyzation of south Manchuria for the past two weeks has naturally affected American business from the standpoint of collections and new business. Both have all but ceased. American firms stand to lose large amounts due them by the Chinese government, semi-government, and private organizations due, in some cases to the seizure of the organizations by the Japanese, and in others to voluntary closing of firms and the hasty departure of debtors. The Japanese have thrown a wrench in the economic machinery of Manchuria, occasioning losses running into many millions to both Chinese and foreigners. They may be able to repair the damage but the greater part of the losses will probably never be recovered.

Respectfully yours,

M. S. MYERS

793.94/1996 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 6, 1931—noon.

[Received 4:20 p. m.⁹⁷]

708. Following from American Consul General at Nanking:

"October 5, 11 p. m. Soong handed me a statement prepared by himself which he said he had shown to no one else. He asked that I telegraph it to you. Statement follows:

"There is up to the present no indication that Japan intends immediately to withdraw her troops within the railway zone in accordance with her promises at Geneva. On the contrary, there are many signs, both in the statements issued in Japan by responsible statesmen, and in the troop movements on the spot, that she aims at keeping her troops in certain places outside the zone, under one excuse or another, as long as possible. It is clear that in doing so she is hoping that, by prolonging the period during which the Chinese police and military forces are prevented from assuming proper control, some incident will arise which will furnish a pretext for continuing, consolidating, and even extending her military occupation.

Even if Japan should desist from further acts of violence such as no government, however pacifically inclined, could leave unanswered, there is already heavy pressure on the Chinese Government, both from within and without, urging upon it the view that the friendly efforts of the powers have no effect upon the plans of the Japanese Government . . . At this juncture the demand for direct action against Japan is everywhere increasing. As an example, the boycott of Japanese goods, which is everywhere complete, is a direct result of popular feeling.

It has not been inspired by the Government; but no government which attempted to prevent it could remain in power for a day.

The situation is therefore one of appalling danger for the peace of the Far East. If it continues, it is absolutely certain that it must sooner or later involve consequences which will be fatal to peace, will destroy all order in China, and later possibly itself.

If Japan can be persuaded to keep in the letter and in the spirit the promises she has made, we still have hope that peace and order may be maintained. Given freedom from external provocation, the Chinese Government is resolved to maintain them and it is believed fully capable of doing so. All that it asks is that the United States Government may take the first steps which it may find possible in order to ensure the prompt and complete withdrawal of the Japanese troops.'"

JOHNSON

⁹⁷ Telegram in three sections.

793.94/2409

*The American Consul General at Mukden (Myers) to the Japanese Consul General at Mukden (Hayashi)*⁹⁸

MUKDEN, October 6, 1931.

SIR AND DEAR COLLEAGUE: I have the honor to state that several American citizens residing in the Commercial Settlement have expressed anxiety in regard to their personal safety owing to the growing frequency of acts of armed robbery and banditry in this area during the past week. Although fortunately no American citizen has been molested so far several have reported themselves as being considerably perturbed by acts of armed robbery and shooting in their immediate vicinity. You will readily understand, of course, that the safety of American citizens is a matter of deep concern to me.

As Japanese are in charge of the local municipal administration and are responsible for the maintenance of peace and order I beg to express the hope that appropriate steps are being taken for the effective policing of this area.

I have [etc.]

M. S. MYERS

793.94/2151

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*⁹⁹

[NANKING,] October 6, 1931.

A fleet of Japanese warships arrived at Shanghai yesterday. Mayor Chang telegraphed that it looked as if preparations were being made for landing troops.

It is reported that more than 50 warships under the command of a Japanese admiral are coming. The situation is becoming very critical.

This clearly sets at naught the understanding reached September 30th by the Council of the League of Nations. The situation is now becoming more critical than the situation which that understanding was intended to relieve, with the result that the trouble is spreading. All sense of justice seems to have been entirely lost.

If an outrage similar to that which has been committed in Liaoning (Manchuria) can be committed along the Chinese coast and the Yangtze River then whole China may pass under the military control of Japan.

It is the hope of the Government and people of China that the nations of the earth, in order to maintain the efficacy of the covenant of the League of Nations and the treaty for the renunciation of war and

⁹⁸ Copy transmitted to the Department by the Consul General at Mukden in his unnumbered despatch of October 12; received October 30.

⁹⁹ Copy of telegram handed by the Chinese Chargé to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on October 7, 1931.

to preserve the *status quo* in the Far East and the peace of the world, will pay special attention to the movements of the Japanese fleet which is about to attack China and make a display of force along the coast and the Yangtze, and draw their just conclusions.

793.94/1999 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 7, 1931—2 p. m.

[Received October 7—9:16 a. m.]

719. Following from American Consul General at Nanking:

"October 6, 7 p. m. I am informed that a telephone message from Shanghai states that the Japanese Government has sent a peremptory demand to the Chinese Government that the boycott be stopped; that otherwise the Japanese Government will adopt forcible measures. Rumor that Japan will land armed forces tonight in Chapei, Shanghai. I have been informed during the last few days that the Chinese Government would be obliged to regard such a landing as an act of war. I have been informed recently also that if any military measures are taken at Nanking by the Japanese the Chinese will retaliate. One Japanese cruiser here now. The Consulate General has in readiness tentative plans for the evacuation of American citizens on to the destroyer but no warning has been issued as conditions do not yet seem threatening.["]

The Legation has received no alarming reports from other sources except anti-Japanese agitations in Yunnan referred to in my 715, October 7, 9 a. m.¹ Reuter reports from Tokyo, October 6th, speak of Japanese taking "Chinese Government severely to task for its negligence in failing to check anti-Japanese boycott" and of despatching cruiser *Tokiwa* to Shanghai with bluejackets for protective purposes. Also that all Japanese living in districts along the Yangtze have been ordered to withdraw to Hankow and Shanghai.

JOHNSON

793.94/2015 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 7, 1931—1 p. m.

[Received October 8—8:50 a. m.]

160. (Section 3.)² Department's 63, October 3, 5 p. m.

(1) Regarding a possible Council meeting on October 14, Drummond said it might not be necessary if things took a favorable turn,

¹ Not printed.

² Sections 1 and 2 (telegrams No. 153 and No. 159) not printed; section 4 (telegram No. 161) printed *infra*. The four sections, dated October 7, were given

though present indications allowed no definite forecast. He expressed the hope that if the Council meets it might be made stronger through the presence of more Foreign Ministers than attended the final part of the regular session in September when the case between China and Japan came up (see my 141, September 26, 9 a. m., paragraph 4). Drummond thinks Briand^{*} at any rate is quite prepared to attend.

(2) Regarding the policy of the Council in this matter, Drummond expanded on one point (see my 150, October 1, 9 a. m., for Council's resolution, point 3). The Council has insisted all along on using the term "withdrawal of troops within the railway zone" or some such phrase, but the Chinese have used and tried to have adopted the phrase "reestablishment of the *status quo ante*" or something of similar purport. Drummond said Sze had urged on him that the expression "*status quo ante*" be employed, to which he had countered with the suggestion of the term "in accordance with treaty stipulations". Drummond's suggestion had caused Sze to retreat from his position, since his Government, I understand, has taken the stand of not recognizing the "validity" of the treaties concerned and since, as I gather, under those instruments Japan is entitled to more troops in the railway zone and to occupation of more points than is envisaged in Sze's "*status quo ante*".

(3) I wish to add, in connection with the above, that Sze yesterday came to me. First he made some statements respecting the position of the forces in Manchuria, etc., chiefly repetitious of assertions previously made by the Chinese, and then he took occasion to state that it was Chinese policy to demand in turn the taking of three successive steps; namely:

- (a) reestablishment of the *status quo ante*;
- (b) reparation for damages; and
- (c) examination of the causes for the difficulty in the general situation in Manchuria with a view to a settlement.

(4) Regarding China's policy in general, Drummond concurred in the opinion which was expressed in the last two paragraphs of my 150, October 1, 9 a. m., and remarked that, while he was merely giving his personal views, it was his belief that, if Japanese withdrawal within the railway zone were successfully achieved, the League would attempt to follow its usual course by having both parties agree to procedure for the adjustment of other outstanding questions through direct negotiations between the two countries. Judging by the Chinese attitude, this might be made difficult by them, but Drummond felt it was desirable since otherwise the danger might remain thereafter of the Chinese bringing every small question before the League or ap-

^{*} Aristide Briand, French Minister for Foreign Affairs.

pealing to the League at each hitch. Should the Chinese persist in trying to keep the matter on an international plane, Drummond of course cannot foresee the outcome.

(5) Drummond expressed concurrence with the opinion expressed in my 141, September 26, 9 a. m., paragraph 7, and agreed that an extremely difficult situation would be caused if Japan should prove recalcitrant in executing the program accepted hitherto. In view of the present situation in the world, Drummond agreed that pressure through economic sanctions would be entirely out of the question, but it had occurred to him that, if worst came to worst, the leading powers might possibly withdraw their mission chiefs from Tokyo. This, he believes, would prove to be a type of pressure which it would be most difficult for the Japanese to resist.

Section 4 follows in my 161.

GILBERT

793.94/2015 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 7, 1931—3 p. m.
[Received October 7—1:35 p. m.]

161. (Section 4.) Department's 64, October 5, 2 p. m.

(1) In talking with Drummond I could see he was cheered greatly by the evidence of understanding and cooperation on your part in the difficult Manchurian problem. He clearly perceives the important relationship in the political and economic spheres of the Manchurian question to the whole world situation and particularly to the disarmament problem. He strongly feels that at this juncture no steps should be omitted and no word left unsaid which would aid in the achievement of a speedy adjustment.

(2) Drummond is very happy that you concur in general with the policy followed in this matter by the League Council, and he is especially grateful for your message which shows such complete understanding of the League's past, present, and future attitude in this dispute. The cooperation shown in this case, he feels convinced, may be of the utmost value in assuring world peace hereafter.

(3) In regard to the matter of exchanging information, Drummond notes that such information as you may be able to make available will be transmitted to him. He desires me to state that he will gladly reciprocate.

(4) However, in this connection there arise in his mind certain questions regarding which he would like to come to an understanding with you. It is incumbent upon him, from the nature of his position, to

act in the interest of all states in the League. Since at present this question has come before the League Council, it has been his task to make known to all League Council members such information as he may obtain from the Japanese or the Chinese or from any Council member (see my 150, October 1, 9 a. m., the Council's resolution, paragraphs 7 and 9). He has circulated such information as a rule to all Council members. Hitherto all messages received from Washington which embodied information or expressions of opinion, with the exception of your formal messages to the Council President (see my [your] 123, September 23, 4 p. m. and 126, September 24, 4 p. m.),⁴ came with the understanding that they were solely for his information. Since his receipt of communications from Washington is generally known, Drummond has often been asked at private Council meetings which have taken place and at meetings of the so-called Committee of Five as to what the policy or views of the United States might be. In response to these requests Drummond has thus far given orally a summary of the information received from you. However, he feels that there are many unsatisfactory elements in such a procedure. First, a résumé of this sort may carry implications of his personal interpretation, and this he naturally is anxious to avoid. Moreover, as keeping anything of the sort strictly confidential is relatively impossible, there is the danger always that it may reach the press and that you may perhaps feel your confidence has not been respected entirely by him. Therefore, though he is quite ready to go on with this system, he would welcome any suggestions from you which would permit him to communicate in writing to the Council members and which perhaps would help promote the common action being frankly sought.

(5) In view of the above, Drummond suggests that if it is convenient, you indicate in any communications you make to him, which portion you are sending for his personal information, and which portion he may make known textually to the Council or to the Council members.

(6) The above chiefly refers to information in regard to the Manchurian situation as envisaged in the latter portion of your 64, as cited. Also there is the question of policy expressions concerning the United States attitude toward the League in this matter, especially as regards the course pursued by the Council; for example, as made known in your 64. Drummond regards such expressions by you at the present time as solely for him. However, he would appreciate having your opinion regarding what use might properly be made of such expressions, and in this connection he asks you to take into consideration the restraining effect upon the Japanese and the good effect in quieting world anxiety if you or he were able to make known the fact that the

⁴ For these telegrams, which were sent to the Minister in Switzerland at Geneva, see pp. 48 and 59.

United States and the League entertain similar views on certain of the more vital aspects involved.

GILBERT

793.94/2005 : Telegram

The Vice Consul at Harbin (Dutko) to the Secretary of State

HARBIN, October 7, 1931—3 p. m.

[Received October 7—2 p. m.]

Following message from Hanson by telephone October 7, 8 a. m.:

"The number of Chinese killed during the fighting at Nanling and Kuanchengtse totalled 118, wounded 199.

The town Chinese police and Chinese Eastern Railway police at Kuanchengtse are unarmed. They are on duty and are under control and jurisdiction of Japanese gendarmes. Each of the Chinese Eastern Railway police has on his coat sleeve badge of white cloth giving, in Chinese, name of his company and in addition little red stamp about one and one quarter inches square which bears Chinese characters signifying Changchun Japanese gendarmes. About 20 Japanese gendarmes at Kuanchengtse are armed, 2 of whom meet each train.

Leaving this morning for Kirin and will return evening of the 9th about 6 p. m."

Legation informed, Tokyo informed.

DUTKO

793.94/2155

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] October 7, 1931.

I asked the Japanese Ambassador to come to the Department to speak with me about the various newspaper reports today from China and the attached telegram from Mr. Peck in Nanking.⁵

As to the demand on the Chinese that the boycott be stopped, the Ambassador said he thought it might well be true that the Japanese Consul General in Nanking had used very strong language since it was the belief of the Japanese Government that the Chinese Government was inciting the boycott. He said that he could not imagine the Consul General having threatened resort to forcible measures on the part of Japan as Japan had no idea of taking any measures which will bring war with China. He referred again and again to war as unthinkable.

As to the landing of Japanese forces in Chapei, the Ambassador said that he had heard nothing of it, but could not believe that any-

⁵ See telegram No. 719 October 7. 2 p. m., from the Minister in China, p. 128.

thing of the sort was intended unless possibly some few troops from destroyers might have been landed. He pointed out that Japan had no Marines to land as we do. The Ambassador said that it was quite true that there was a cruiser at Nanking, but that it was unthinkable that Japan should do any such thing as bombard Nanking.

Mr. Debuchi said that the Consul in Nanking had authority to evacuate Japanese throughout the city to the water front, where they could be protected, if this was necessary, but he had told his Government that he did not consider it necessary at this time. I pointed out to the Ambassador that it would certainly create a very bad impression in the world if, as the newspapers seem to report, the Japanese Government made the withdrawal of its troops to the railway zone in Manchuria contingent on the stopping of the boycott. I said that, on the other hand, the world would sympathize with Japan if it withdrew its troops in Manchuria into the railway zone and, after it was done, urged the Chinese Government to stop the boycott. I told him that it seemed to me very unfortunate to take any measures which would undermine the Chinese Government since, whether that Government was liked or not, it was the only government with which any of us could negotiate. The Ambassador agreed to this, but said he felt the Chinese Government was in a very bad position since the Cantonese would apparently insist on the resignation of Chiang Kai Shek and there seemed to be no one to take his place. He said the best man in the Government seemed to be T. V. Soong.

As to the troops in Manchuria, the Ambassador said that they had been entirely withdrawn from two places and he believed they were being withdrawn from others, but not as quickly as he wished they might be. He said that he was not a military man and could not understand why the evacuation was not being more quickly carried out.

I told the Ambassador that we were, of course, very much disturbed by all these reports that kept coming in, not necessarily because Japan was doing something which should not be done, but because as the situation continued it became inevitably more and more tense and might lead to exceedingly unfortunate incidents. The Ambassador told me that he had sent a very long and vigorous telegram to Baron Shidehara about the wireless in Mukden and also the banking situation in Mukden, telling him that the military there should certainly understand that it was to their disadvantage to interfere with such important institutions as the National City Bank and the wireless with its Radio Corporation interests.

The Ambassador said he hoped I would feel free to call him at any time to comment on reports we got because he wanted to cooperate to the limit.

W[ILLIAM] R. C[ASTLE,] JR.

793.94/2006 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 7, 1931—6 p. m.

[Received October 7—4:25 p. m.⁶]

723. In reference to Legation's 708, October 6, noon, Consul General at Nanking reports further under date of October 6, 11 a. m. and October 6, 3 p. m.

"1. Soong gave me the information reported in my October 4, 10 p. m. and added that Shidehara had convinced the State Department, according to his report, that the civil element in the Japanese Government still controlled the military and that troops would be withdrawn as required. Soong cannot but feel that withdrawal will not be accomplished unless a strong stand is taken by the League or by one or more powerful nations independently of the League. As part of his grounds for holding this view he said that Chang Kia-ngau, President of the Bank of China in the days immediately following September 18th had spoken with Count Uchida and Kimura of the South Manchuria Railway Company, [with the] editor of the *South Manchuria Daily News*, with the Japanese Consul General and with other Japanese and that all had spoken of the two wars Japan had waged for Manchuria and had said that since events had taken their present course Japan would not relinquish this area.

2. I inquired what steps China was taking on her own part to ascertain whether Japanese troops were being withdrawn and he replied that the Chinese Government on October 4th had sent a communication to the Japanese Government stating that instructions had been issued to Chang Tso-hsiang and Wang Shu-chang to enter into negotiations with the Japanese military authorities in Manchuria in order to reestablish Chinese control over areas progressively evacuated. He said no reply had been received from the Japanese Government.

3. Soong said that if the justice of Chinese position were not vindicated in some way by October 14th he did not think the Government could survive popular resentment if the Government passively accepted the situation."

"Shortly after our conversation and before his departure Soong sent by confidential messenger a second statement with request that I telegraph it to you. This morning he sent me a note written on the train expressing fear that the statement might seem to you somewhat presumptuous in tone in that it offers advice regarding course to be taken by the United States; he asked me to explain that the statement arose from our discussions of possible action which the United States might take on behalf of China. Soong also sent me Rengo report dated from Mukden October 18 [*sic*] stating that Kwantung army headquarters will broadcast daily from Northern Wireless Station 'for purpose clarifying impartial stand of Japanese troops Manchuria and conveying correct information on various Manchurian problems for home and abroad.'

⁶Telegram in five sections.

Soong made marginal notation 'while talking this evening about how sensitive Japanese really are to world opinion.'

Second statement follows:

"The following facts for His Excellency Minister N. T. Johnson: The action of the League of Nations weakened perceptibly on the reported announcement that the United States proposed to take no action concerning the Manchurian crisis. It is believed here that the attitude of the United States was inspired by an appeal from Shidehara that public pressure on the part of the powers would soon result in a military *coup d'état* and the formation of a military dictatorship in Japan, and that on the other hand the Japanese Government desired and was succeeding in ordering military uprisings.

Through reliable official reports from Manchuria and from the interviews which the governor of the Bank of China, Mr. Chang Kia-ngau, [had] with General Honjo, Consul General Hayashi, Count Uchida and Mr. Kimura, the last two as late as October 2d, it is clear that both the Japanese military and civilians have the firmest determination not to withdraw troops, and further they are organizing local shadow governments in Manchuria and Mongolia, which will be autonomous and under their protection.

Such being the case, the Manchurian crisis is reaching to a climax and it is to be hoped that as stated United States addressed [*will address?*] both to China and Japan the hope that the two countries will withdraw their troops, and as Japan will not carry out her promise of so doing, the United States will make its influence felt in Tokyo, Japan not daring to oppose a firm attitude of the United States of America. This will encourage the League of Nations, particularly if the United States of America would assure it that the United States will view with sympathy action calculated to bringing Japan to carry out her undertaking to withdraw her troops, which she morally bound herself to carry out before October 14th.'"

JOHNSON

793.94/1978 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 7, 1931—5 p. m.

364. Reference penultimate paragraph of section one of Tokyo's telegram No. 175, October 5, 4 p. m., to the Department.⁷

1. The Department's No. 181, October 3, 2 p. m., to Tokyo read as follows:

[Here follows text printed on page 107.]

Similar representations have been made to the Japanese Ambassador here.

2. Instruct Mukden that any approach whatever, oral or written, to the Consulate by Japanese authorities or Chinese or Americans interested in this question should be reported to Department at once and no commitments of any sort be made in connection therewith without instruction.

STIMSON

⁷ Paragraph beginning "Before I left . . .," p. 114, is apparently the one referred to.

793.94/1958 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

WASHINGTON, October 7, 1931—6 p. m.

67. Department's 64, October 5, 2 p. m. If you have not already done so, you should read to Drummond the whole text.

STIMSON

793.94/1996 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 7, 1931—6 p. m.

365. Reference your 708, October 6, noon, transmitting telegram of October 5, 11 p. m., from American Consul General at Nanking. The telegrams under reference evidently crossed the Department's numbers 361, October 5, 2 p. m., and 362, October 5, 3 p. m., which it is felt clearly indicate the attitude of this Government toward the situation covered by Soong's statement. It is suggested that Peck be instructed to inform Soong, orally and informally, that the statement has been received, that its contents, like those of all other communications relating to this subject, are being given the Department's most careful consideration and that the Department is giving its most solicitous attention to the many and difficult problems which this situation presents. Peck might repeat that, as stated in its previous telegrams above referred to, the Department feels that China and Japan should now be given an opportunity themselves to carry out their respective commitments; and that the Department earnestly hopes that both the Chinese and Japanese Governments will make every possible effort to ensure reliance on peaceful methods for the settling of this dispute.

STIMSON

793.94/2011 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, October 7, 1931—7 p. m.
[Received October 8—6:34 a. m.]

724. My 721, October 7, 4 p. m.^s There is no adequate reason I know of for not proceeding to Nanking. Since I had informed my British and French colleagues that I did not expect at this time to go south, I have told them of my present changed plans and think they likewise may go south.

^s Not printed.

All of us agree the situation is fraught with serious potentialities, but we are rather doubtful of the effectiveness of a moderating influence at Nanking without similar influence at Tokyo which would be calculated to justify Chinese confidence hitherto placed in the League and the Kellogg Pact.

There seems to be a real danger that incidents may occur to cause a Japanese move in the Yangtze Valley. Recent telegrams from the Consul General at Nanking (being repeated to the Department) report a state there of great uneasiness, the authorities even appearing to talk of war.

A similar danger exists here in the north. In my 645, September 24, 1 p. m.,⁹ I informed the Department of the embarrassing situation resulting from the presence in Peiping of the Japanese Legation Guard and in Tientsin of Japanese troops. This situation is one of the reasons making it appear advisable for the Chiefs of Mission to remain here.

There is a very bad situation in the interior of Manchuria, which is now overrun by wandering Chinese soldiery the Japanese have dispersed. Should the Japanese repeat in the Yangtze Valley or elsewhere the measures they have taken in Manchuria, the danger arises that this sort of situation may spread, to everyone's great harm.

In my opinion, pressure should be exerted in Tokyo to persuade the Japanese Government of the peril to everyone if the present conditions are allowed to continue and of the necessity for the Japanese Government to take early steps encouraging restoration in Manchuria of Chinese control and administration. If the powers and Japan allow matters to go along as they have hitherto, I am certain of more serious consequences in China.

JOHNSON

793.94/2157

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck)*

[WASHINGTON,] October 8, 1931.

The Chinese Chargé called at the request of the Secretary.

The Secretary stated that he wished to talk with the Chargé with regard to the Manchuria situation. He said that he had wanted to talk with the Chargé at intervals since this situation began to develop, that he had regretted having been called away from the conversation begun when the Chargé called on him a few days ago, that he had been kept constantly and fully informed by Mr. Hornbeck with regard to matters discussed in the course of the Chargé's conversations with officers of the Far Eastern Division and Mr. Castle.

⁹ Not printed.

and that he wanted at all times to be kept informed as fully as possible with regard to matters which the Chargé might wish to bring to his attention and with regard to the situation in general. He said that he had found that he would have a period free this morning and had immediately asked that the Chargé be asked to call on him.

The Chargé said that he greatly appreciated being sent for.

The Secretary said that he wanted to explain his thought and the course of action which he was following with regard to the Manchuria problem. He said that it was a delicate and difficult problem. First of all, he wished to refer to a request which the Chinese Government had made that the American Government send observers to Manchuria. The Chinese Government had informed us that they were asking the principal governments which were members of the League to send observers and that they hoped that we as signatories to the Kellogg Pact would do likewise. It had happened that we had already felt the imperative need of having more complete and accurate information than had yet reached us with regard to the facts in Manchuria, and we had arranged to send two observers, a Secretary from our Tokyo Embassy and the Consul General from Harbin. We had informed the Japanese and Chinese Governments. The observers are already in Manchuria.

The Chargé asked whether we had received any reports. The Secretary said that reports had not yet reached us.

The Secretary gave the Chargé a copy of the reply which we had instructed the American Minister to make to the Chinese Government on the subject of observers.

The Secretary then said that it had been fortunate that at the time when the present trouble began the Council of the League was in session. The League has a Covenant in which provision is made in detail for meeting a situation of this sort. The League had acted promptly and had succeeded in agreeing unanimously on the Resolution of September 30. The American Government had been acting while the League was acting and on parallel lines. We had been gratified at the success of the League in adopting the Resolution. In the Resolution the Japanese Government made commitments and so did the Chinese Government. The League expected the two governments to live up to these commitments. So did the American Government. We have been urging upon the two governments the necessity of making every effort possible toward that end.

The Chargé voiced a suspicion that the Japanese would not live up to their commitment.

The Secretary said that it was better in international relations to proceed on the assumption that a government will keep its pledges than on the suspicion that it will not. He went on to say that we

were looking to both governments to make every possible effort. He had observed that the Chinese Government seemed also to be suspicious with regard to our attitude. He wanted to assure the Chinese Government that we are proceeding along those lines which we think will best contribute to the keeping of the peace. We have not attempted to go into the question of right and wrong in the dispute; for the moment we are concerned with the question of peace.

The Chargé said that the matter was one of vital concern to the Chinese.

The Secretary said that it was of concern to the whole world. He said that we are not taking sides, that we are working to prevent conflict, that we will be equally opposed to any party that makes trouble, and that we are "playing no favorites". He said that the situation calls for calmness and self-restraint, even repression. The public is agitated in China and the public is agitated in Japan. The governments must try to keep their people in control. Action that is likely to give provocation should be avoided.

The Chargé thanked the Secretary for calling him in and thus clearly outlining this Government's attitude and course of action.

The Secretary said that he hoped that the Chargé would come to us at any time and he would make it a point to find time to receive him whenever the Chargé felt that it was necessary.

With that, the conversation ended.

S[TANLEY] K. H[ORNBECK]

793.94/2158

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Counselor of the British Embassy (Osborne)

[WASHINGTON,] October 8, 1931.

Mr. Osborne called and read and showed to me the texts of several telegrams received by the British Embassy from London. These telegrams were in part repeats of telegrams received by the British Foreign Office from the British Minister in China. The substance of the whole was that the Chinese Government had asked the British Government and others to send observers to Manchuria. Before receipt of the Chinese Government's request, the British Minister to China had been on the point of sending a Secretary of Legation and a Military Attaché to Manchuria, but in view of the Chinese Government's request he was withholding action and referring the request to his Government. The British Government had telegraphed to the French and other Governments that it was willing to do two things: (a) to send observers and (b) to address both the

Chinese and the Japanese Governments calling on them to refrain from hostilities, provided the other Governments would agree to do likewise.

I explained to Mr. Osborne that we had had a similar request from the Chinese Government and that we had been in the fortunate position of being able to reply that we had already sent our observers.

There followed some discussion of the capacity of observers and the distinction between observation by them in the capacity of reporters to their own governments and the function which might be that of observers who would attempt to make a common report. Mr. Osborne said that his understanding of the Chinese Government's proposal was that each set of observers should report to its own government. I said that that was what the American observers were doing, namely, to report to the American Government. I said that newspaper reports here had indicated that there had been some kind of observers of each of four governments, American, British, French and Spanish, in Manchuria, but that reports from Geneva indicated that Geneva was not sure how many observers or of what countries were there.

Mr. Osborne said that he believed his Government wanted to send observers for its own information. I said that I thought it might be said that this Government hoped that they would.

The conversation there ended, with a statement by Mr. Osborne that if he received additional information on this subject he would at once communicate it and a statement by Mr. Hornbeck that he would be glad to try to reciprocate.

S[TANLEY] K. H[ORNBECK]

793.94/2016 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 8, 1931—1 p. m.

[Received 7:45 p. m.¹⁰]

727. Following from Hanson and Salisbury at Changchun:

"October 6, 2 p. m.

1. There was fighting between Chinese and Japanese at Nanling, 3 miles south of Changchun, at Kuanchengtze, 3 kilometres northeast Changchun, and at the main station of the Kirin-Changchun Railway at Changchun.

2. Local Japanese officials have informed us that they learned of the clash between Chinese and Japanese soldiers at Mukden at 12:15 a. m. on September 19th. The Japanese military commander at Changchun sent 200 of his troops at 3 a. m. toward the barracks at

¹⁰ Telegram in nine sections.

Nanling where there were about 3,500 Chinese soldiers. The Japanese attacked the barracks at about 5 a. m. Later they were reenforced by 200 South Manchuria railway guards, brought from Kungchuling, a few miles south of Changchun. Fighting ceased early in the afternoon after most of the Chinese soldiers had fled. The Japanese casualties amounted to 43 killed and 52 wounded. The Chinese casualties were 180 dead, number of wounded unknown. The Japanese commenced the fighting by delivering a surprise attack. The Japanese officials justified the action on the grounds that they were afraid that the Chinese soldiers at Nanling, where there were 36 field pieces, upon learning in regard to the Mukden incident, would shell the Japanese settlement at Changchun, and the Japanese attacked to forestall such an attempt. We believe possible Chinese soldiers in question had no intention of shelling nor the audacity to shell the Japanese settlement, so that the Japanese Government were not justified in making the attack unless for military reasons. The Japanese troops withdrew from Nanling on the 20th. According to the Japanese military, the next day, Chinese started to steal what articles were left behind in the partially ruined barracks and a guard of 25 Japanese soldiers was sent to protect the property. The guard is still located there.

3. It is evident that the Japanese do not intend for the time being to occupy these much-ruined barracks. The Japanese military do not permit Chinese or Russians to visit the barracks but the Japanese civilians and schoolboys are daily making excursions to the "battle-field".

4. The same time the Japanese military command at Changchun sent the Japanese detachment toward Nanling, 3 a. m. on September 19, it ordered 300 Japanese troops from Changchun to attack the Chinese barracks at Kuanchengtze, the southern terminal of the Chinese Eastern Railway. These barracks contained about five or six hundred Chinese regular troops, a few village police and some Chinese Eastern Railway Chinese police. The village and railway police surrendered as soon as the attack, which was concentrated on the building where the regular soldiers slept, was made in the dark by the Japanese. The Chinese soldiers resisted until 11 a. m. when the Japanese put into action a 3-inch gun which fired four or five shots causing the Chinese to surrender. The Japanese casualties were 23 killed and 33 wounded. Chinese reports indicate that about 35 Chinese were killed.

5. The Japanese authorities very vaguely expressed to us the fear that the troops in these barracks might make an attack on the Japanese forces. We believe that the attack on these regular soldiers, whose duty it was to guard the Chinese Eastern Railway; the village police, whose duty it was to safeguard Chinese and Russian residents of Kuanchengtze; and the railway police, whose duty it was to guard the stations of the railway, was unjustifiable from the standpoint of international law. These barracks, now empty and partially destroyed, are still under control of Japanese soldiers, 20 of whom are stationed in the headquarters formerly occupied by the Chinese Eastern Railway police.

6. The Japanese have given no evidence that they intend to withdraw their troops at Kuanchengtze, whose presence is not needed to protect any Japanese lives or property, which are nonexistent here and whose presence most likely acts as an irritant to Soviet Russia.

Chinese Railway police could afford the necessary protection to Chinese Eastern Railway property but the Japanese military refuse to allow Chinese Railway police on duty at Kuanchengtze station to carry weapons of any sort. In the morning of October 6th about 200 young Japanese employees of the South Manchuria Railway, in military formation, apparently volunteers accompanied by Regular Japanese Army officers, marched through the village of Kuanchengtze in the direction of station Ichienpo, 9 kilometres north from Kuanchengtze on the Chinese Eastern Railway. They carried spades and sticks only. The reason for this march could not be learned locally.

7. At 5 a. m. on September 30th Japanese troops burned the barracks of the railway guards of the Kirin Chinese [-*Changchun?*] Railway powerhouse, main station of this railway at Changchun, during the operations to secure control of this railway's telegraph and telephone lines to facilitate the advance of Japanese troops toward Kirin city.

8. The Japanese and Chinese officials interviewed by us stated that the three actions mentioned above were started by the Japanese military.

9. The Changchun Chief of Police informed us that the Japanese have shown no evidence that they intend soon to abandon the airplane landing field constructed by them outside the South Manchuria Railway zone since the clash.

10. As far as Changchun is concerned, the Japanese have not inaugurated a civil administration. However, the Japanese gendarmes are exercising control over the Changchun city police and is [*are?*] flying the Japanese flag over the headquarters police station in the native city. Japanese military are exercising control over the Chinese telephone and telegraph stations in the native city. This military control is causing much loss to merchants of all nationalities, but the Japanese military show no inclination to relinquish this control. They do not interfere otherwise with the civil administration [of the] city nor with the Chinese passport officials.

11. The thinking classes of Chinese at Changchun feel against the Japanese while the larger unthinking masses are indifferent in regard to the recent events except as they affect them financially. It has been stated that the most of the Chinese population fears the Japanese military.

12. The withdrawal of Japanese troops from Nanling, Kuanchengtze, the airplanes passing over and [*etc*] telephone and telegraph offices in the native city and [*withdrawal?*] of Japanese gendarmes from supervision over the Chinese police would not result in injury of Japanese lives or property or danger from banditry.

13. According to the Chinese Chief of Police the Japanese military have not damaged the Chinese radio station at Changchun but have dismantled the principal parts of its machinery.

14. The failure of the local Japanese military to withdraw their troops from the places above mentioned would indicate a lack of desire to return to the *status quo ante*.

15. We are planning to leave Changchun for Kirin 8:30 a. m. October 7th.

Repeat to Tokyo. Repeat to Department."

793.94/2009 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 8, 1931—2 p. m.
[Received October 8—6:45 a. m.]

728. Following from American Consul General at Nanking:

"October 7, 5 p. m. A responsible official of the Chinese Government October 7, 2 p. m., told me that the Government takes seriously a report which has reached it that the Japanese have in contemplation landing forces in and bombarding Nanking. He said that he told me this so I could make plans to protect myself from the trouble which would inevitably follow either action. He asks that I informally convey this warning to other consulates."

Repeated to Tokyo. Has the Department any information as to the intentions of the Japanese Government in this respect?

JOHNSON

793.94/2009 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 8, 1931—5 p. m.

368. Your 728, October 8, 2 p. m., transmitting telegram from American Consul General, Nanking, October 7, 5 p. m. With reference to final paragraph, see final paragraph of Tokyo Embassy's No. 178, October 8, 5 p. m.¹¹ The Japanese Ambassador here in conversation with the Under Secretary on October 7 said that it was unthinkable that Japan should do any such thing as bombard Nanking. The Department has no further authentic information.

STIMSON

793.94/2010 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 8, 1931—8 p. m.
[Received October 8—6:45 a. m.]

729. Following information just received from [apparent omission] of Young Marshal's office:

"Between 1 and 2:15 this p. m., 12 Japanese airplanes flew over Chinchow, new seat of the Chinese Provincial Government in Manchuria and dropped 36 bombs, chiefly directly [*directed?*] at the University buildings and house [of the?] Provincial Government. Buildings were damaged but casualties so far unknown. A bomb was dropped on service car number 141, killing two Chinese cleaners, and

¹¹ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 14.

one was dropped on the locomotive sheds. Telegraph lines between Chinchow and Shanhaikwan interrupted."

JOHNSON

793.94/2019 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 9, 1931—9 a. m.
[Received October 9—6:30 a. m.]

733. From Consul General at Mukden :

"October 8, 8 p. m. Ten Japanese airships bombarded Chinchow this noon. Japanese Commander in Chief, General Hsu [*Honjo*], despatched scout planes to Chinchow this afternoon which dropped leaflet containing statement by him as commander which is virtual ultimatum to Chinchow Government. He states that Chinchow Government is creation of Chang Hsueh-liang which is conducting intrigues in Manchuria inimical to Japanese forces; that military operation again was necessary and that it was not directed against Chinese civilians."

JOHNSON

793.94/2018 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, October 9, 1931—10 a. m.
[Received October 9—4:26 a. m.]

734. Your 362, October 5, 3 p. m. The Consul General at Nanking telegraphed on October 8, 1 p. m., that T. V. Soong was at Shanghai, but the Department's message was delivered orally and informally to Acting Foreign Minister Lee by Peck. Lee seemed somewhat reassured and stated that he would inform the special diplomatic commission, the members of which have responsibility and authority in this matter. Peck stressed to Lee the confidential nature of the message and added that popular anti-Japanese feeling was growing still more intense.

JOHNSON

793.94/2027 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 9, 1931—11 a. m.
[Received 3:30 p. m.]

165. 1. This morning Sze showed me telegram from Nanking (a)
Japanese aeroplanes, (b) con-

cerning news from Chengchiatun that Japanese are arming Mongolians at Talingchen and at other points from supplies of Mukden arsenal and are inspiring a Mongolian independence movement. Sze will undoubtedly give the substance of this to the press.

2. Sze regards [Paraphrase.] as deliberately provocative these actions on the part of the Japanese military, and in this Drummond concurs.

3. Sherwood Eddy's ¹² telegram from Tientsin also was shown me by Sze, reporting his presence at the capture of Mukden and including his testimony of Japanese endeavors to set up an independent regime in Manchuria under Japanese military control. Sze requested that this be considered strictly confidential, since he does not wish Eddy to be known as the source of this information.

4. This morning Sze has urged upon Drummond, in the light of the above, that the Council be called forthwith (see the League Covenant's article 11 and my 150, October 1, 9 a. m., paragraph 8 of the Council's resolution)—in other words, prior to October 14.

Sze drew attention to the circumstance that the Japanese assurances to take no further action to aggravate the situation have not been fulfilled. He says Chinese public opinion is in such a state that it is essential for news of an early meeting of the Council to reach China as quickly as possible lest there be an outbreak against the Japanese. Sze is especially apprehensive of developments tomorrow during the Chinese national holiday. He declared also that the diplomatic language employed by the Council and by the powers is regarded by the Japanese military group as a weakness; he urged the use of stronger terms which would be understood by the Japanese military.

5. Drummond is hesitating between the necessity of quieting Chinese opinion through publishing an immediate summons of the Council and objections to calling the Council when there is at hand only conflicting information from Chinese and Japanese sources and no "neutral" information to serve in stabilizing the Council's action. He most earnestly desires to have in his hands as soon as possible your information on the actual situation in Manchuria. [End paraphrase.]

GILBERT

793.94/2025 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 9, 1931—noon.

[Received 2:20 p. m.]

166. Consulate's number 165, October 9, 11 a. m. I have just returned from an interview with Drummond.

¹² American author and former Y. M. C. A. secretary.

1. He is proposing to Lerroux the immediate despatch of identic telegrams to the Chinese and Japanese Governments reminding them of their engagements not to aggravate the situation.

Because of recent developments this is essentially aimed at the Japanese. It is hoped however that its publicity will assist in quieting Chinese public opinion which is looking to the League to "do something" immediately.

[Paraphrase.] 2. Drummond told me in confidence that as a result of developments which he considers most alarming, the Council probably will meet the evening of October 12 or the next morning. He believes the meeting will be on the earlier date. He reiterated that he most earnestly hoped you would have something at that time for him to present. It is his feeling that the tide in the whole affair might be turned if he had at hand "neutral" information to present to the Council when it reconvenes. [End paraphrase.]

GILBERT

793.94/2014 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

WASHINGTON, October 9, 1931—2 p. m.

70. Your 163, October 8, 9 a. m.,¹³ Inform Drummond that I trust that he intends to advise calling the meeting of the Council.

STIMSON

793.94/2091b : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 9, 1931—2 p. m.

372. 1. Repeat to Peck Department's 367, October 7, 8 p. m.¹³

2. Inform Peck that the Secretary of State had a long conversation with the Chinese Chargé on October 8. The Secretary explained our attitude and policy and urged necessity for self-control on part of both the Japanese and the Chinese nations. He has repeatedly urged same on Japanese Ambassador.

Repeat to Tokyo.

STIMSON

¹³ Not printed.

793.94/2159

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*¹⁴

[NANKING,] October 9, 1931.

Twelve Japanese aeroplanes yesterday attacked Chinchow on the Peking-Mukden line by dropping more than fifty bombs and firing machine guns, killing one Russian professor, one soldier and fourteen civilians, and wounding more than twenty people. There was considerable damage to the railway station, including the destruction of three locomotives, other damages being under investigation.

The League circle has already been informed of this serious occurrence and is considerably alarmed.

The Department's attention should be drawn to the fact that the provincial capital has been removed to Chinchow since the occupation of Shenyang (Mukden).

793.94/2026 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 9, 1931—4 p. m.

[Received October 9—4 p. m.]

167. Consulate's 166, October 9, noon. The following identic telegram has just been sent by Lerroux as President of the Council to Chinese and Japanese Governments:

"Information received tends to show that incidents are taking place in Manchuria, and elsewhere, which cannot but embitter feeling and thus render settlement more difficult. In these circumstances and pending the meeting of the Council, I feel it is my duty as President of the Council to remind the two parties of the engagements taken before the Council to refrain from any action which would aggravate the situation, and to express the confident hope that steps are being taken on both sides to execute fully the assurances given to the Council and embodied in its resolution of the 30th September."

GILBERT

793.94/2017 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, October 9, 1931—5 p. m.

[Received October 9—7:24 a. m.]

179. The Vice Minister for Foreign Affairs told me today that owing to continued boycotting of Japanese goods and people it

¹⁴ Copy of telegram handed by the Chinese Chargé to the Chief of the Division of Far Eastern Affairs on October 9, 1931.

was becoming extremely difficult for Japanese to remain in China. Chinese merchants refuse under any circumstances to do any business whatever with Japanese individuals, and banks refuse to cash checks made out to Japanese. In addition the Japanese have been subjected to personal abuse and even violence on a scale which indicates a deliberate plan.

The Japanese Government he said has therefore addressed a note to the Nanking Government¹⁵ asking that steps be taken to check this movement and prevent aggravation of the present situation. It informs the Nanking Government that the latter will be held responsible for whatever may be the consequence of failure to suppress the anti-Japanese movement and to afford adequate protection to the lives and property of Japanese subjects in China. The Vice Minister told me further that two cruisers, the *Tatsuta* and the *Tenryu*, were being despatched to the Yangtze. I told him that according to a report which has reached me the Chinese believed that Nanking and perhaps other places would be attacked. He said that there was no intention on the part of Japan to occupy any territory; that their forces in the Yangtze region were less than those of the British or the Americans and that no forces would be landed from the Japanese ships until after consultation with the Japanese Consul General in Shanghai.

I do not know what the Japanese intend to do about the boycotting and other matters they complain of. They are somewhat excited and exasperated but hope that they can get the Nanking Government to do something about them. It is possible that they may make reprisals of some sort in case the Nanking Government refuses.

Repeated to Peiping.

NEVILLE

793.94/2028 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 9, 1931—6 p. m.

[Received October 9—3:48 p. m.]

168. Council meeting set for noon Tuesday, October 13, at Geneva. Drummond is confident that Reading and Briand will attend and that other Foreign Ministers will follow suit.

GILBERT

¹⁵ See telegram No. 736, October 10, noon, from the Minister in China, p. 151.

793.94/2409

*The Japanese Consul General at Mukden (Hayashi) to the American Consul General at Mukden (Myers)*¹⁶

MUKDEN, October 9, 1931.

SIR AND DEAR COLLEAGUE: I have the honour to acknowledge the receipt of your letter dated October 6, 1931, in which you state that anxiety has been expressed by American residents in the Commercial Settlement here in regard to their personal safety, owing to the growing frequency of acts of armed robbery and banditry during the past week. You also express therein the desire that appropriate steps are being taken for the effective policing of that area.

In reply, I beg to state that I have requested the Japanese Military Authorities to take necessary steps in compliance with your desire, as they actually are charged with the maintenance of peace and order in this town, inasmuch as the competent Chinese authorities remain inactive.

I have [etc.]

K. HAYASHI

793.94/2160

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*¹⁷

[NANKING,] October 9, 1931.

The Chinese Minister in Tokyo notified the Japanese Government on October 6th that General Chang Tso Hsiang and General Wang Shu Chang had been appointed representatives to take over places to be evacuated and asked for telegraphic instructions to the military commanders to begin to hand over. No reply has been received up to this date. The Chinese Minister has been instructed to deliver a second note as follows:

"The fulfilment of the Council's resolution of September 30th, requires the immediate transfer to Chinese authorities of localities occupied by Japanese troops since September 18th. The Chinese Government, having pledged itself to assume responsibility for the safety of the lives and property of Japanese nationals during the process of withdrawal of Japanese troops and the reestablishment of local Chinese authorities and police forces, notified the Japanese Government on October 6th of the appointment of its representatives, and asked it to make immediate arrangements to enable Chinese troops to

¹⁶ Copy transmitted to the Department by the Consul General at Mukden in his unnumbered despatch of October 12; received October 30.

¹⁷ Copy of telegram handed by the Chinese Chargé to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on October 10, 1931.

effectively take possession of the evacuated localities and thus to protect the lives and property of residents in conformity with the undertaking given to the Council.

"As no reply has been received and matters are extremely urgent, I am instructed to request (1) that the Japanese Government indicate the immediate localities to be taken over this week, and (2) that in the course of the day instructions be telegraphed to the military commanders so that reoccupation can begin tomorrow.

"I have the honor to add that copies of the present note are being communicated to the League Council and the Department of State and that reports of daily progress will be telegraphed to Geneva and Washington."

Please ask immediately the Department of State to wire instructions to Peiping authorizing military or civilian representatives to accompany each unit proceeding to occupy the evacuated territories. All facilities will be given to these representatives to remain in contact by telegraph and wireless with their Legation and with Geneva. Reports of daily progress will be telegraphed to Washington and Geneva and their texts will be discussed with these representatives beforehand.

This is a matter of extreme urgency and the Chinese Government will welcome any suggestions as to the most effective means for representatives of the powers to watch the reoccupation of the territory and maintain contact with each other and with the Legations at Peiping.

A similar request is being presented to the members of the Council at Geneva.

793.94/2034 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 10, 1931—11 a. m.

[Received October 10—5:45 a. m.]

735. Following telegram has been received from Hanson and Salisbury via Harbin.

"October 9, 8 a. m. Arrived in Tunhua yesterday evening, shall leave this morning at 10:30 for Kirin. Japanese soldiers withdrew from Tunhua and Kirin-Tunhua Railway on October 5th, 2 days after our arrival at Changchun. Shall leave Kirin for Changchun early tomorrow morning."

Repeated to Tokyo.

JOHNSON

793.94/2029 : Telegram

The Minister in China (Johnson) to the Secretary of State

TIENTSIN, October 10, 1931—noon.
[Received October 10—1:19 a. m.]

Following from Peck:

"October 9, 12 p. m. The Acting Minister of Foreign Affairs this evening asked me to inform you that it is the hope of Chinese leaders that the United States will be represented by an observer at the meeting of the League Council which it is believed will be held October 14. He urges that you recommend this proposal favorably to the Department by telegraph."

JOHNSON

793.94/2030 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 10, 1931—noon.
[Received October 10—7 a. m.]

736. Copy of following memorandum published as Reuter message in this morning's *Peking Leader* has just been supplied by the Japanese Legation with statement that it was to be communicated to the Chinese Government.¹⁸

"(1) Japanese Government has already made it clear that Manchurian affair is nothing but outcome of reported [*deep-rooted*] anti-Japanese feeling in China which has taken [a] specially provocative form in recent challenge to Japanese troops compelling latter to resort to measures of self-defense. Responsibility for present situation naturally lies with Chinese Government.

Japanese Government has time and again requested Chinese Government to take proper steps to check anti-Japanese Government [*movement*] so systematically carried out in various places in China. Being desirous of maintaining cordial relations between [the] two countries this Government has exercised greatest patience and forbearance in hope that this deplorable state of affairs may yet improve. Unfortunately however this anti-Japanese agitation seems now to be assuming alarming proportions.

It is learned that anti-Japanese societies at Shanghai and elsewhere have passed resolutions not only to enforce prohibition of trading in and transportation of Japanese goods but to order cancellation of existing contracts and otherwise to prohibit all business transactions and to cancel contracts of employment between Chinese and Japanese in order thus to effect so-called 'severance of economic relations with Japan'. For that purpose examination and detention of goods and persons, intimidation and violence, and various other means are being employed to give effect to such resolutions and severe penalties are meted out to any who [may] fail to comply with these orders, some

¹⁸ The text of this memorandum was sent to the Department by the Japanese Embassy on October 8, *Foreign Relations*, Japan, 1931-1941, vol. 1, p. 15.

societies even going so far as to threaten capital punishment. Moreover cases of expropriation and detention of goods owned by Japanese people and of threats and violence against their lives and property have become so numerous and insistent throughout China that they have been forced to withdraw totally or partially from various localities.

(2) It is to be noted that anti-Japanese movement in China is conducted as instrument of national policy under direction of Nationalist Party which in view of peculiar political organization of China is inseparable in function from [the] Government. That movement must therefore be clearly distinguished from one which originates spontaneously amongst people. It is therefore evident that present anti-Japanese movement in China is not only in contravention of letter and spirit of treaties expiring [*existing*] between [the] two countries but constitutes [a] form of hostile act without use of arms contrary to all standards of justice and friendship. Chinese Government will be assuming very serious responsibility if it should fail to take prompt and effective measures to quell that agitation. Moreover in meting out penal sentences to individual citizens anti-Japanese societies which are purely private organizations are clearly usurping authority of National Government.

(3) It will be remembered that at recent meeting of Council of League of Nations at Geneva Chinese representative as well as Japanese gave assurance that their respective Governments would endeavor to prevent aggravation of situation.¹⁹ Chinese Government obviously against that pledge is actually aggravating situation by making no honest or effective effort to restrain activities of anti-Japanese societies which are jeopardizing lives and property as well as liberty of trade of Japanese subjects in different parts of China.

(4) Japanese Government desires to call once more serious attention of Chinese Government to these actions on part of anti-Japanese societies and to declare at same time that Chinese Government will be held responsible for whatever may be consequences of its failure to suppress anti-Japanese movement and to afford adequate protection to lives and property of Japanese subjects in China."

Tokyo appropriately informed.

JOHNSON

793.94/2091a: Telegram

*The Secretary of State to the Consul General at Nanking (Peck)*²⁰

WASHINGTON, October 10, 1931—2 p. m.

87. Until recently we have been reassured by the commitments made by the governments both of China and Japan to the League of Nations which were embodied in the Resolution of the 30th of September. Under that Resolution, Japan agreed to continue as rapidly as possible the withdrawal of its troops into the railway zone, while China with

¹⁹ League of Nations, *Official Journal*, December 1931, pp. 2279, 2282.

²⁰ Similar telegram to the Chargé in Japan (No. 192), *Foreign Relations*, Japan,

Japan's consent agreed to assume responsibility for the safety of lives and property of Japanese nationals outside of that Zone. I am, however, much disturbed by later reports, especially of the last 48 hours, which indicate that these commitments are not being carried out by either government.

I wish that you would call upon the Acting Minister of Foreign Affairs at once and, after reading him the above, impress upon him the dangers to all interests in China which we feel will inevitably result unless the pacific policy thus agreed upon is observed and unless both the Japanese and Chinese nations exercise at this time the utmost self restraint. I am urging this also upon the Japanese Ambassador and the Chinese Chargé here.

STIMSON

793.94/2045 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 10, 1931—6 p. m.

[Received October 10—12:05 p. m.]

738. Paragraph No. 2 of the Department's 364, October 7, 5 p. m., repeated to Mukden, which has replied as follows:

"October 10, 11 a. m. This Consulate General has informed orally the Japanese Consulate General, in response to its oral and written requests, made on behalf of the Japanese military authorities, that it does not consider the present situation justifies the Japanese request for a copy of agreement between a Chinese Government administration and an American corporation. The Japanese Consulate General has been informed further that the Radio Corporation's interest in the physical plant is based upon the effect which damage to the plant would have upon the operation of its traffic agreement. The Japanese Consulate General yesterday unofficially informed Vincent that a telegram received from the Legation [*Japanese?*] Foreign Office for transmission to Japanese military authorities would hasten the re-establishment of service."

2. Legation has replied as follows:

"October 10, 5 p. m. Your October 10, 11 a. m. being repeated the Department. Your telegram fails to state but Legation assumes that your reported conversations with the Japanese took place prior to receipt of Department's instructions transmitted in the Legation's October 9, 11 a. m., which provides for reference of any inquiries regarding radio station to the Department prior to any reply by your office."

3. Above transmitted in the Legation's October 10, 5 p. m., to Tokyo "for its information pending receipt of Department's further instruction".

4. Department's instructions are requested.

JOHNSON

793.94/2015 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 10, 1931—6 p. m.

78. Your 160, October 7, 1 p. m. (section 3). Please inform Drummond of the following:

(1) Reports on the Chinese-Japanese situation warrant grave concern, and again I have urged upon both Governments that their countries should exercise great self-restraint and try to live up to the commitments expressed in the Council's resolution of September 30.

(2) I assume the League Council will meet no later than October 14 and will immediately turn its attention to the China-Japan situation.

(3) As the situation appears to me, each disputant has a good many and ever-increasing grounds for complaint against and irritation at the other. Unquestionably they should negotiate a settlement, but the way the situation is developing the Chinese and Japanese are proceeding in the direction of warlike rather than of peaceful measures. So the question arises as to whether it has not become necessary to remind the disputants formally of their obligations under the Treaty for the Renunciation of War. As this situation has occupied the League from the outset, it has been my feeling that invocation of the Anti-War Pact should be held in reserve, but now I am inclined to think that the unfortunate events of the past few days appear to make the necessity of resorting to the Pact imminent. An expression of Drummond's views would be welcome in regard to how attention may most promptly and effectively be called to this treaty's obligations in the event of such action becoming necessary.²¹ Should this question come up at the coming Council meeting, you are authorized, if you are invited, to take part in the discussion thereon.

Drummond should for the present consider the foregoing as confidential.

STIMSON

793.94/2037 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 10 [11], 1931—8 a. m.

[Received October 11—4:25 a. m.]

740. Following received *en clair* from Acting Minister of Foreign Affairs, Nanking, dated October 9th:

²¹ Sir Eric Drummond's personal views were reported by the Consul at Geneva in his telegram No. 179, October 11, 11 p. m.; not printed (793.94/2058).

"His Excellency, Nelson Trusler Johnson,
American Minister, Peiping.

While the Chinese Government is making every exertion to fulfill its undertakings given in its reply to the recent note of the American Government and to the communication from the President of the Council of the League of Nations to protect the Japanese residents and do nothing to aggravate the present situation pending its solution before the Council of the League of Nations, the Japanese militarists committed yesterday another act of war by the bombardment by 12 military airplanes of Chinchow, outside the so-called South Manchuria Railway zone, where the Provincial Government had been transferred after the occupation of Shenyang. The attack resulted in many casualties including one foreign professor as well as considerable damage to property and particularly to the University building lodging the temporary provincial headquarters.

As Chinchow is strongly held by the Chinese garrison the situation has become exceedingly grave. The Chinese Government has telegraphed to Geneva asking the Council of the League of Nations to take urgent measures for the conservation of peace and inviting an immediate visit to Chinchow from the League's missions for investigation and report on them for the Council's meeting on October 14 or earlier should the Council so decide. The Chinese Government will be grateful if the American Government should delegate a person or persons to participate in the work of the League's mission and if this request could be treated as one [of] extreme urgency in view of the seriousness of the situation, which the Chinese Government does not wish to disguise. The Chinese Government reposes entire confidence in the support of the American Government. (signed) Chinglung Frank Lee, Acting Minister for Foreign Affairs."

JOHNSON

793.94/2042 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 11, 1931—6 p. m.

[Received October 11—3:10 p. m.]

172. (1) Your 74, October 9, 7 p. m.²² The information therein has been made available to Drummond.

(2) As to your query whether the information furnished by you corresponds to other information in the League's possession, Drummond wishes me to report that all the information he is receiving is being sent to you. From what you are receiving you will note that yours is much more complete and more far reaching than anything Drummond yet has at his disposal, so that to check in any detail is not yet a practical question. Drummond has furnished you already

²² Not printed; it transmitted news received about the Manchurian situation.

with information from the British Government (see my 171, October 11, 2 p. m.²³), but he expects much more from this source and hopes also to get something from other governments, especially from the French and German. As it comes in he will send it to you at once.

(3) Drummond asks me to tell you that he appreciates highly the information you have sent him, as it greatly assists him personally, but its value would be enhanced enormously, in his opinion, if he were at liberty to transmit the facts confidentially or otherwise to the Council members, especially as the forthcoming special meeting is likely to be attended by so many foreign ministers. To compare and coordinate reports from all sources will, he feels, be of the utmost assistance in the meeting's discussions and deliberations.

(4) Drummond then discussed his role of Secretary-General of the League of Nations and its relation to a matter of this nature. He pointed out that in no way was his position analogous to a Foreign Minister's. In a relationship between the League and various governments, he is in effect only an agency of transmission. Accordingly, to exchange information with him alone is not in any way tantamount to an exchange with either the Council or its members. In regard to this valuable information you have supplied, he remains handicapped in his use of it in any practical fashion so long as he is restrained by the injunction not to reveal its source. Should he communicate it to anyone, the first question he would be asked would be as to the source of the information. From the kind of reply he would give, the information either would not be accorded its due weight or its source would be surmised. In case of the latter, he might be placed in a position of appearing to breach the Consulate's confidence. Drummond said he saw three ways to make use of factual information on the Manchurian situation received from neutral sources. In their order of effectiveness these are:

- (a) To circulate among the Council members and to make public;
- (b) To inform Council members confidentially;
- (c) To make known for confidential use to the members of the so-called Committee of Five.

(5) Drummond said he trusted that you would understand the spirit in which his position in this matter is being made known to you, and he solicits your assistance in whatever way you feel able to give it.

(6) I wish it to be understood that in the foregoing I have transmitted the views of Drummond as they were expressed to me by him.

GILBERT

²³ Not printed; it transmitted a message from the British Government, dated October 10, reporting Japanese troop movements.

793.94/2004 : Telegram

The Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, October 11, 1931—6 p. m.

388. Your 739, October 11, 10 a. m.²⁴

(1) The Department desires a complete report at the earliest possible moment regarding the bombing of Chinchow, to include as full an account as possible of the incident, the number of casualties, the damage to property, etc. You should in your discretion make what arrangements you consider most feasible for a prompt execution. If it can be attained by immediately sending Hanson and Salisbury to the spot, you should rush instructions for them to proceed there and at the earliest possible moment to report. Otherwise someone else should be sent.

(2) Inform the Department of the present whereabouts of Hanson and Salisbury and of the arrangements made by you to carry out the above.

(3) The foregoing should be regarded as unusually urgent.

STIMSON

793.94/2049 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 11, 1931—11 p. m.

[Received October 11—10:30 p. m.]

180. The meeting of the Council summoned for October 13, noon, will deal solely with the Sino-Japanese question (Council resolution, paragraph 8, Consulate's 150, October 1, 9 a. m.).

[Paraphrase.] Based upon my observations, I believe the policy the Council will attempt to pursue will be as follows:

To discuss the causes now is quite beside the question. To enter into such a discussion might raise issues which would afford an avenue of escape to the Chinese or Japanese from their present commitments. All must be focused upon the undertaking of the Japanese to withdraw inside the railway zone and upon the undertaking of the Chinese to safeguard the lives and property of Japanese as they evacuate points beyond the railway zone.

The above holds good also in regard to the question of any settlement of the Manchurian problem as a whole or of reparations.

Should developments in the Council materialize as hoped for, it is anticipated the Council may be able to state that it will recommend,

²⁴ Not printed.

as soon as evacuation has occurred and undertakings by both parties have been carried out, that they themselves negotiate the procedure to settle other outstanding questions affecting both parties to the dispute.

It may be noted that this attitude of the Council is looked upon as serving possibly as a face-saving device for Japan which may thus be able to see that, once out of it, they can begin negotiating directly with the Chinese Government. [End paraphrase.]

GILBERT

793.94/2059 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 12, 1931—8 a. m.

[Received 10:16 a. m.]

181. Consulate's 173, October 11, 6 p. m.,²⁵ paragraph 3. Drummond has handed me for communication to you the following message received today from the Japanese delegation in Paris. It refers to the Japanese Government's reply of October 9 to the Chinese note of October 5th.

"First part of Chinese Government's note states that 'Japanese representative on League of Nations has formally declared for withdrawal of all Japanese troops in different districts and reestablishment of situation existing before September 18th['] and adds that [']Council's resolution ordered total withdrawal of Japanese troops before meeting of October 14th.' As appears from Japanese representative's repeated statement to Council, the withdrawal of Japanese troops in railway zone is conditional on security of our nationals in Manchuria. Moreover Council's resolution of September 30th contains no provision ordering withdrawal of our troops before Council meeting of October 14th. Regarding points raised in second part of Chinese note, Japanese Government is prepared to define its attitude as follows:

1. Military operations undertaken by Japanese army along South Manchuria Railway line since incident of night of September 18 between Chinese and Japanese troops near Mukden, were designed solely to avert by preventive action the potential menace constituted by presence in these districts of Chinese armies in crushingly superior numbers. Japanese troops have in fact suffered considerable losses of men in spite of proclamation of nonresistance of Chinese troops.

2. Chinese Government proposes appoint Generals Chang Tso-hsiang and Wang Shu-chang to arrange with Japanese military authorities for suitable means for maintaining order in certain localities in railway zone after withdrawal of Japanese troops. The present concentration in these localities of armed Chinese soldiers to cope with any eventuality, although maintenance of order is sole object in view,

²⁵ Not printed.

would very probably under present circumstances, as at the time of incident, have regrettable effect upon troops' feeling of serious impending menace. In view of extreme tension of national feeling on both sides, danger of conflict between troops of both parties is probably greater than at any moment hitherto.

3. Japanese Government considers most urgent task of moment is collaboration of our two Governments with a view to calming over-excited national feelings by rapidly establishing through direct negotiations fundamental points capable of constituting a basis allowing for resumption of normal relations. Once national feelings are allayed by direct negotiations Japanese troops might without over-much apprehension return entirely to railway zone thus facilitating assertion of authority and maintenance of order in localities in question.

4. Japanese Government is ready to negotiate immediately with responsible representatives of Chinese Government in order to establish fundamental points referred to."

GILBERT

793.94/2042 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 12, 1931—11 a. m.

83. Your 172, October 11, 6 p. m. You should explain to Drummond that the American Foreign Service officers who are my observers have been trained especially for service respectively in China and Japan and are assigned to posts in each of those two countries. They have been sent by me to Manchuria on a delicate mission of observation and will report to this Government the facts as they see them. Of necessity their reports are arriving piecemeal in the process of assembling the facts, while they themselves move about to continue their observations and to send me data as gathered. To disclose from day to day what they report would increase the difficulty of their task, might place them in peril, would confront them with an unnecessary obstacle in obtaining a maximum amount of accurate data, and might impair their ultimate value in the countries where they are serving. It is my opinion that material received from various sources may perfectly well be compared without the sources being labeled or disclosed. Reports by different observers doubtless will agree in some particulars, disagree in others. A disclosure of the sources to numerous groups, such as the League Council, would tend to encourage controversy. Consequently I feel that, in the light of the considerations given above and because my observers are working primarily for this Government's information, I am, in transmitting it to Drummond for his confidential use without disclosing the source, going as far for the present as I am warranted in doing.

STIMSON

793.94/2063 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 12, 1931—11 a. m.

[Received 12:30 p. m.]

182. Drummond has handed me for communication to you the following message from the Japanese Government which has been circulated to the members of the Council.

“Firstly, since the beginning of present incident Japanese Government has spared no efforts to circumscribe events and settle matter by direct negotiations. It has further drawn up plan for withdrawing Japanese troops outside of railway zone to within zone progressively as protection of railway and security of life and property of Japanese nationals are assured. In this spirit Japanese Government responded to appeal of President of Council and joined in Council resolution of September 30th last. Secondly, the Japanese Government is firmly resolved to follow up line of conduct above indicated. With this object the Japanese Government has not complied with urgent requests of Japanese nationals residing in Northern Manchuria and Chientao district for despatch of troops for their protection but on the contrary has not hesitated where necessary to take extreme measures in shape of orders not only to Japanese nationals but also to consular staff to evacuate Manchuria and China properly speaking. Japanese Government cannot understand Chinese Government’s unperturbed aggravation of situation by failure to take any effective measures to arrest anti-Japanese movement which increases daily throughout the country especially in districts under Nanking Government’s control. Japanese Government continues to put forward idea of calming by direct negotiations atmosphere of extreme tension between the two peoples and not only settling present incident but also eradicating deeper causes of present incident with a view to preventing regrettable eventualities in future. Chinese Government is informed directly and indirectly of Japanese Government’s intention in this respect. In pursuance of program above indicated Japanese Government is withdrawing to within railway zone troops sent outside zone so far as situation permits. Withdrawal has made real progress since Japanese declaration of September 24th last.

Thirdly, Chinese Government has withdrawn its unofficial proposal for direct negotiations which Japanese Government accepted on the ground that Council of League was dealing with the matter. Japanese Government continues to believe in direct negotiations as effective means of relieving situation and is glad to think that Council of League took same view when it called upon both parties by resolution of September 30 last to leave no stone unturned in order to hasten reestablishment of normal relations between the two parties. Since above unofficial proposal the Chinese Government has taken no steps calculated to show its sincere desire to ease situation as you desire and has rendered practically impossible all efforts to clear up disagreeable atmosphere prevailing between the two countries and especially to relieve the tension between the two armies in Manchuria, thus depriving of all practical value the assurance given by Chinese represent-

atives to Council that China assumed responsibility for security of Japanese nationals with progressive withdrawal of Japanese troops within the railway zone. Under these circumstances military authorities are compelled to forego decision to withdraw troops except from localities in Manchuria where organizations exist capable of maintaining order. Growing insecurity of Japanese nationals in localities without Japanese troops, as shown by communications made to Council, renders particularly difficult the efforts to restore normal situation.

Fourthly, the Chinese Government might explain its inactivity in connection with protection of Japanese nationals by flight of its local officials and dispersion of its troops as a result of Japanese troop operations. These operations are only a consequence of provocation of Japanese railway guards by Chinese soldiers which is natural outlet of animosity displayed by China towards Japan for years past. This anti-Japanese attitude has led Japanese troops to take measures of protection in a somewhat wide area to safeguard their own existence as well as the railway and Japanese nationals. For these reasons the Japanese Government is firmly convinced that only constructive way of solving the difficulties is to arrest anti-Japanese movement throughout China and to negotiate directly as soon as possible with a view to calming and limiting dangerous situation now prevailing between the two countries.

Fifthly, the Chinese Government through its Minister at Tokyo has presented to the Japanese Government a note dated October 5 regarding the possibility of withdrawal of troops and maintenance of order in Manchuria. The Japanese Government replied to this note October 9 repeating once more its intentions and urging necessity of immediate negotiations with representatives of the Chinese Government on points raised by Chinese note as well as fundamental points indispensable for reestablishment of normal relations. Improvement of present situation therefore depends solely on sincerity displayed by Chinese Government in considering Japanese Government's reply."

GILBERT

793.94/2064 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 12, 1931—11 a. m.

[Received 1:05 p. m.]

183. Drummond has handed me for communication to you the following message from the Japanese Government which is being circulated to the members of Council.

"Following on anti-Japanese movement several Japanese Consulates in China particularly those situated along river Yangtze [have] been obliged evacuate towns in which established to seek refuge in safer localities. Present position as regards evacuations as follows:

1. Japanese Consulate at Chengchow, 5 members including their families, 10 Japanese residents. Anti-Japanese movements becoming very serious. All members of Consulate, their families and Japanese

residents left town September 28th in order to avoid their way to refuge being cut off. They arrived at Hankow September 30th.

2. Japanese Consulate at Yunnan[fu], 3 members including their families, 25 Japanese residents. Since beginning of incident Chinese authorities at Yunnan[fu] have seized all telegrams addressed to Japanese Consul thus causing much anxiety. In view of increasingly serious situation the Consul caused the 25 Japanese residents to evacuate the town about October 5th. They arrived at Hanoi October 7th. Minister of Foreign Affairs ordered Consul on October 7th to leave his post if necessary in order to assist the residents in refuge [at] Hanoi, after having taken necessary steps to safeguard Consulate and property left by the Japanese residents.

3. Japanese Consulate at Chungking, 15 members including their families, 80 residents. One gunboat and a steamer are placed at disposal of Japanese refugees. Anti-Japanese movement so strong in this town that Japanese concession is in danger of being attacked by over-excited individuals. In these circumstances Minister of Foreign Affairs has ordered Consul to send residents out of town down Yangtze. Consul also [has] been authorized withdraw if necessary to Hankow with members of Consulate after collecting members of Consulate and Japanese residents at Chengtu.

4. Consulate General at Chengtu, 5 members including their families, 5 residents. The situation at Chengtu does not at present seem sufficiently serious to warrant immediate evacuation. If these residents remained in Chengtu the Consulate and Japanese residents at Chungking would be in such a position that they could not withdraw in case of necessity. In these circumstances Minister of Foreign Affairs issued on October 7th instructions to Consul General that whole Japanese colony of Chengtu should be brought to Chungking as soon as possible so that thence the Japanese residents might take refuge down the Yangtze."

GILBERT

793.94/2045 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 12, 1931—1 p. m.

389. Your 738, October 10, 6 p. m. Instruct Mukden promptly to inform the Department of any new developments bearing upon the statement of the Japanese Consulate General reported in last sentence of Mukden's telegram of October 10, 11 a. m. to the Legation, or upon any other phase of the question, and to take no new steps in relation to this matter without first informing the Department and requesting instructions; also to transmit a full report by mail despatch.

STIMSON

793.94/2065 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, October 12, 1931—3 p. m.

[Received October 12—11:40 a. m.]

The following telegram has been sent to the Legation :

Conditions in the International Settlement, particularly in the northern district, have become more threatening each day during the last week. The municipal authorities have endeavored to lessen the tension by conciliatory methods. These efforts were successful until the 10th and during the past 48 hours outbreaks have been threatened continuously. Yesterday afternoon the Japanese held a mass meeting in the Japanese Primary School on North Szechuen Road attended by some 2,000 of their nationals. This was followed by a Japanese civilian parade. A serious clash between Chinese and Japanese was only prevented by the timely intervention of the International Settlement police. The tension between the Chinese and Japanese is due on the one hand to what is believed to be an unnecessary display within the Settlement and on Settlement roads of military forces by the Japanese. Chinese are past masters in their ability to display on posters libellous caricatures and this ability may have been carried to a very great extreme, not only in Chinese territory but in Chinese business houses in the Settlement, and these but naturally incite the Japanese to make efforts to suppress such posters.

Another contributory cause is the extension of the Japanese boycott, which prior to September 19th was not deeply seated, to enforcing a policy of nonintercourse with the Japanese, which has resulted in an unprecedented paralyzing both of trade and personal relations. To illustrate the extent to which such a course is being pressed, one of the local Japanese banks paid a commission of some \$600 to secure 75,000 local silver dollars on the 8th, through a private agency, rather than apply to one of the larger foreign institutions to supply the amount for fear admission of such extreme necessity would too seriously affect the standing of Japanese institutions with foreign banks. I have never known the advocacy of so complete nonintercourse during any of the preceding boycotts as there has been no justification. War conditions would not cause a more complete nonintercourse policy than is being enforced during the last few days in Shanghai.

The International Settlement authorities previously have attempted to exclude caricature posters that were either antiforeign or affected only one nation. The municipal authorities now, due to modified administration, are impotent in their efforts to prevent posters being displayed in the Chinese shops in the International Settlement though they did suppress them in 1925. These posters are of such a character as to justly incite the Japanese and threaten law and order in the Settlement. The municipal authorities of the International Settlement have orally expressed the hope that I²⁸ would suggest to the Japanese the undesirability of an extraordinary display of military forces. Though I feel that the Japanese marines stationed here are

²⁸ As Senior Consul at Shanghai.

unnecessarily conspicuous and have numerically increased by some 200, it is difficult to find a satisfactory reason for bringing it to the attention of the Japanese Consul General or to express the hope that until the municipal police authorities have become incapable of handling the situation that this display should not be increased beyond what has been customary during the last 3 years.

CUNNINGHAM

793.94/2060 : Telegram

*The Minister in China (Johnson)*²⁷ to the Secretary of State

PEIPING, October 12, 1931—4 p. m.
[Received October 12—11:06 a. m.]

747. From Consul General at Nanking:

"October 10, 6 p. m. H. H. Kung, Minister of Industries, asked for an interview with me and I called upon him October 10, 5 p. m. He has just returned from Shanghai. He asked me what information I had regarding the position of my Government toward the actions of Japan in Manchuria. He says that he had been informed by a League official who happens to be in China that after Japan had assured the League that Japan had no territorial ambitions in Manchuria, et cetera, the United States discouraged the idea of further intervention by other nations. I replied in the sense of the Department's authorized reply to Soong. Kung then objected that Japan had been continuing its military activities in Manchuria even after giving its assurances to the League and he inquired what the attitude of the American Government would be if Japan evinced no intention of carrying out its commitments. I replied that this question must rest for the time being until October 14, that [*sic*] the period allotted by the League had expired."

For the Minister:
ENGERT²⁸

793.94/2161

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] October 12, 1931.

The French Ambassador²⁹ stated that he had come to talk about the Manchurian situation. The Secretary came in to say a few words to him about the Kellogg Pact and cooperation with the League. He told the Ambassador that it seemed that the time had come that the provisions of the Kellogg Pact probably should be invoked; that he had suggested this to Sir Eric Drummond, but that in a telephone

²⁷ Minister Johnson was absent from the Legation on a visit to Nanking.

²⁸ Cornelius Van H. Engert, First Secretary of Legation.

²⁹ Paul Claudel.

conversation with Mr. Gilbert in Geneva this morning³⁰ Mr. Gilbert had said that Sir Eric was afraid of invoking the Pact at this moment for fear that it might bring up other issues which would make settlement of the Manchurian problem more difficult. He suggested to the Ambassador that it might be well to telegraph to Mr. Briand, who will attend the meeting of the council tomorrow, informing him of our feeling in the matter, and assuring him that if the League should decide to call to the attention of the Chinese and Japanese their obligation under the Pact, we would act concurrently; also the Secretary pointed out that since the League had taken action from the beginning in the Manchurian matter, it might be better for the appeal to the signatories of the Kellogg Pact to act independently to go out from Geneva rather than was the case four years ago when it was sent out from Washington.

After the Secretary left the Ambassador asked a little about the present situation in Manchuria, and I told him what our feeling was. He said that in general, although he thought the Japanese had of course gone too far and that they had not lived up to the agreement made with the League on September 30th, nevertheless his sympathies were with Japan, because he felt that they had endured almost more from the Chinese in Manchuria than was humanly endurable. He said of course it was very serious that the military should have taken control as they have, but believed that the Japanese Government and especially Baron Shidehara, for whom he has great admiration, would get the upper hand of the military before war was actually declared.

W[ILLIAM] R. C[ASTLE], JR.

793.94/2222

Memorandum by the Under Secretary of State (Castle) of a Conversation With the Japanese Ambassador (Debuchi)

[WASHINGTON,] October 12, 1931.

Mr. Debuchi told me that he had taken up with the Secretary the following four points.³¹

1. Shidehara feels strongly that the Commander of the Japanese Army in Manchuria is not in position to take charge of any diplomatic negotiations. The question therefore as to whether Marshal Chang can be recognized or not is one to be decided only by the Japanese Government.

³⁰ Memorandum of conversation not printed.

³¹ See memorandum by the Secretary of State, October 12, *Foreign Relations, Japan, 1931-1941*, vol. I, p. 22.

2. It was very far from the thought of Shidehara to minimize the Chinchow incident. This was an isolated military action and in no way reflected the attitude of the Japanese Government.

3. Shidehara wants the Secretary to be assured that the fixed policy of Japan toward China, which is a policy of peace and friendship, will not be influenced by incidents brought about by military officers under the stress of excitement.

4. Shidehara entirely approved Mr. Debuchi's explanation of the recent Japanese memorandum sent to the Nanking Government.³² He added that although the terms of the note were rather severe in language, this was customary in notes to the Chinese Government.

The Ambassador asked me if I would tell him what I thought the American attitude was toward the Manchurian situation at the present moment. I told him that I thought at the beginning, although people felt that the Japanese military authorities had gone too far, nevertheless American opinion was restrained in the matter, possibly because many people realized that the Japanese in Manchuria have suffered many and continued irritations. I told him that everyone was relieved when the League of Nations passed its resolution of September 30th concurred in by the Japanese and Chinese Governments, but that since that time we had all been profoundly disturbed by the fact that Japan did not seem to be carrying out its own commitments under that resolution in that there was very little evidence of an attempt to withdraw the troops within the railway zone and that there was, on the other hand, an apparent willingness to go on further than they had already gone. I pointed out to him that even in war time such an incident as that of Chinchow would have caused serious criticism and that for the Japanese planes to fly far outside the lines was a provocation which seemed to have no justification under international law. I told him, therefore, that in spite of the fact that the Chinese did not appear to be taking the steps they should take to protect Japanese lives and property, I felt that the Japanese unwillingness to carry out their own commitments was rapidly turning American sentiment against them, and in this case American sentiment would inevitably be similar to that of the rest of the world.

I told the Ambassador that we still looked for direct negotiations between the Japanese and Chinese as the only solution of the matter and reminded him that he had himself said he thought the Chinese terms, that they would negotiate when the Japanese troops had been withdrawn from the railway zone, were fair. The Ambassador said that he did not pretend to be a military man, and that he could not understand why the withdrawal of these troops had been so slow.

³² For text of memorandum dated October 9, see telegram No. 736, October 10, noon, from the Minister in China, p. 151.

Mr. Debuchi said that Baron Shidehara was very anxious to negotiate with the Chinese and showed me, in the utmost confidence, one of the statements which Baron Shidehara was prepared to make as one of the bases of these negotiations. This statement was a very vigorous assertion that Japan did not wish any territorial concessions in Manchuria, including the eastern provinces thereof and that it did not wish to interfere with the Chinese administration of the country. He repeated continually the determination of the Japanese not to go to war and did not once attempt to defend the army for its advances since the commitment was made to the League of Nations.

The Ambassador, of course, represents the Shidehara policy which is essentially peaceful and friendly. He said that the latest batch of Japanese newspapers he had received played up the friendly attitude of this country in the present crisis and said that he hoped nothing might happen which would change that attitude. I told him that I also hoped nothing would happen to change the American sentiment, but that I felt it depended very largely on Japan and the actions of the army in Manchuria, since after all there was a strong feeling for the sanctity of treaties and the Japanese must not drive American opinion, as unfortunately they were rapidly doing through such incidents as the bombing of Chinchow, into the idea that Japan did not consider treaties as real obligations.

W. R. C[ASTLE.] JR.

793.94/2091c: Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 12, 1931—6 p. m.

85. As to an appeal to the Pact of Paris, you should take up with Drummond the following suggestions:

I have been alive to the danger that an independent initiative in Washington might create embarrassment for the work done by the League of Nations. For this reason I have held back and merely co-operated as far as possible in the line pursued by the League. In the question of the Kellogg-Briand Pact, however, I confess I had not seen any danger of embarrassment to the League if the invocation of the Pact were left, as I suggested expressly, in the League Council's hands. This Pact involves no discussion, no argument, and no investigation. It involves only an expression of a caution or protest representing the signatories' views. The Pact's chief efficacy lies in the wide measure of public opinion it evokes, since a caution to the two disputants would probably be joined in by a very large number of the signatories. In 1929 a response came from a large majority of the

signatories, although there was no machinery and little time and although the two disputants got into communication hurriedly to forestall the protest. With reference to Drummond's suggestion that this country alone should address a note calling the attention of Japan and China to the Pact of Paris, to me this seems to mistake the whole purpose of invoking the Pact, namely, to bring as large a percentage as possible of the signatories into action, and in this way mobilizing what virtually is the world's public opinion against a breach of the peace in Manchuria. Consequently, although I am entirely alive to the danger in ordinary cases of double jurisdiction and in this case have been trying to avoid the least possibility of it, I do not see how the Pact's invocation, made under the League Council's auspices, possibly could involve such danger. This danger possibly might occur, on the other hand, if the United States alone and independently were to send such a note under the Kellogg Pact.

STIMSON

793.94/2056 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, October 12, 1931—8 p. m.

[Received October 12—9:47 a. m.]

748. Your 388, October 11, 6 p. m. Since Hanson and Salisbury probably are en route to Taonan, Colonel Margetts is being sent to Chinchow tonight, while Lieutenant Brown will join him there from Mukden.

For the Minister:

ENGERT

793.94/2066 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 12, 1931—8 p. m.

[Received 8:33 p. m.]

186. Drummond has handed me for communication to you the two following messages from the Chinese Government dated Nanking, October 11th, which have been circulated to the members of the Council.

First message:

"Peking-Mukden Railway report two armor and one passenger cars conveying [from] Chengchiatun arrived Tungliao and three cases of ammunition moved toward city. North-South station damaged in 26 places. Goods depot South station destroyed. One Japanese plane dropped hand hills since 9th. passenger trains go only as far as

Second message:

"Japanese aircraft cruised October 10th over the industrial city of Tangshan and other Chinese territories inside the Great Wall thus aggravating situation continuously and extending area of military operations."³³

GILBERT

793.94/2070 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 12, 1931—9 p. m.

[Received October 12—3:42 p. m.]

749. Following is Nanking's 81, October 11, 6 p. m. to you.

"Your 87, October 10, 2 p. m. Your instructions were carried out October 11, 5 p. m.

Acting Minister of Foreign Affairs made no comment but asked whether I knew what failure by China to carry out commitments was referred to. I replied I did not know. As of probable interest to me he then showed me confidentially copy of a telegram just received from Drummond giving text of an undated communication from the Department. I noted but did not inform Lee that this was substantially the first part of the communication whose text was recently telegraphed to Berne by the Department. . . ."^{32a}

For the Minister:

ENGERT

793.94/2069 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 12, 1931—10 p. m.

[Received October 12—3:30 p. m.³³]

750. Following from American Consul General at Nanking dated October 11, 12 noon, and October 11, 7 p. m.

"Questioned in regard to recent developments Soong said that no reply had been received from the Japanese Government to the notification of the appointment of Chinese representatives to take over charge of evacuated areas, after the bombardment of Chinchow. The Chinese Government, through the Chinese Minister in Tokyo, pressed for a reply but unsuccessfully. Finally a note was received from Japanese Government stating that to satisfy public opinion representatives should be announced by the two Governments to discuss matters in Manchuria. October 10th the Chinese Government inquired of the Japanese Government: (a) What sort of representatives should be appointed, (b) what the scope of the discussions should be, and (c) was it the intention of the Japanese Government that the

^{32a} Telegram of October 9, quoted in Department's No. 88, October 13, 11 a. m., to the Consul General of Nanking p. 175

discussions should be deferred until after military withdrawal had become completed. No reply has been received.

The Japanese note protesting against the boycott was presented by the Japanese Minister, October 11, 10 a. m. Soong said that popular criticism of the Chinese Government for its alleged weakness was growing stronger.

He reiterated that military measures by the Japanese in the Yangtze Valley would be resisted and he confirmed current reports that concentration of Chinese forces in the region north of the Yangtze is taking place to overcome the initial advantage the Japanese would have in regions near the coast and large rivers."

"Soong said he understood the policy of the American Government which was cooperation with the League in regard to the present crisis but he said that he thought that independent action by the American Government would be very desirable either on the basis of the Kellogg Pact or the Nine-Power Treaty. He inquired whether the American Government could not call another nine-power conference. I said I could only transmit his question to you.

Frank Lee has informed me that the Japanese Minister handed the memorandum of protest to him accompanied by an English translation and observed that no explanatory comments seemed necessary. Lee said the interview lasted only a few minutes. The Japanese Minister today sent me English translation of the memorandum almost exactly as published in the *Shanghai Times*, October 10th."

For the Minister:

ENGERT

793.94/2083 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 13, 1931—6 a. m.

[Received 10:30 a. m.³⁴]

754. Following from Hanson and Salisbury, October 10, 8 p. m., via Harbin, October 11, 10 a. m.

"1. On September 19th Japanese women and children commenced to withdraw from Kirin, 200 Japanese troops started from Changchun for Kirin city via the Kirin-Changchun Railway. Upon learning of their approach, General Hsi Chia, Chief of Staff of Chang Tso-hsiang's Kirin troops, ordered the 7,000 Chinese troops at Kirin city to withdraw from the town, which they did, thus avoiding a clash with the Japanese troops, who in the evening of the same day entered the city and immediately took over the wireless, telephone and telegraph stations and principal government organizations and sealed the vaults of the principal banks. The troops were preceded by Japanese airplane which dropped leaflets announcing the speedy arrival of the troops and urging the Chinese populace not to be alarmed.

2. According to a statement made at Kirin to Hanson by Jung Hou, former Taoyin at Newchwang, Commissioner for Foreign Af-

fairs at Changchun and until October 2nd Provincial Treasurer of Kirin, who has been known to Hanson for 17 years, delegates from the Commissioner of Foreign Affairs' office and of various organizations met the Japanese troops, told the commander that the Kirin people were not concerned with Mukden problems; that the South Manchuria Railway zone, important to the Japanese, was far away, indeed situation in Kirin city was quiet; that no Japanese residents had been or were in danger; that the Chinese troops had been withdrawn to avoid a possible clash; and that the Japanese troops were not wanted at Kirin. They asked the Japanese Commander why the Japanese troops were being sent and were informed by him that all he knew was that he had been ordered to Kirin and that he must obey orders. Subsequently General Hsi Chia met General Tamon, the Japanese high Commander, unofficially at the Japanese Nagoya Hotel and was asked by the latter to order the withdrawn Chinese troops to surrender arms by noon of the 23rd. Protesting that this was very difficult, as the soldiers were not in barracks, General Hsi Chia managed to gather several hundred rifles by the time indicated. General Tamon became enraged and accused General Hsi of trying to trick him. At the conference called to discuss this matter there were Generals Hsi and Tamon, the Chinese Commissioner for Foreign Affairs Shih Lu-pen, the Japanese Consul General Ishii, and a Chinese interpreter named Liu Chun-fen. General Tamon, stating he wished to discuss a purely military matter, requested the Japanese Consul General to withdraw from the room. Thereupon the Commissioner for Foreign Affairs also withdrew, leaving Generals Hsi and Tamon and Liu together. General Tamon then stated that Hsi deserved punishment and that he would leave him alone to think over this situation. He and Liu departed. Immediately after, two Japanese soldiers came into the room and holding pistols pointed at Hsi's head remained with him in this position for 1 hour. General Tamon then returned and suggested to Hsi that he submit to the will of the Japanese military command, which would support him with money and ammunition in case he did and in case he formed a new government for Kirin Province, and would punish him if he did not. Again Tamon gave Hsi some time to think this over. During this interval the Japanese military adviser of General Chang Tso-hsiang and Chinese high Provincial officials entered the room and urged Hsi to accept. Thereupon Hsi accepted in order temporarily to give Kirin a breathing space with the hope of saving Province for the Chinese later. Under pressure of Japanese military Hsi abolished present form of government, as ordained by Nanking, established a new government with himself as 'Chang Kuan' ('high official') and with military and civil authorities already there under him and discharged those Provincial officials who, according to a list drawn up by the Japanese military, had shown themselves pro-Chang Tso-hsiang, pro-Chang Hsueh-liang or anti-Japanese. Among those were Chung Yu, Commissioner for Foreign Affairs at Harbin, and Jung Hou. The Kirin office of Commissioner for Foreign Affairs was abolished speedily. The result is that the Kirin Provincial Government is now independent of Nanking and the former Mukden Government clique and is controlled and dominated by the Japanese military.

3. Jung Hou's version of what occurred at Kirin on September 21st to 24th has been confirmed to us as correct in its main points by:

A Dane who is employed by the agents of the Catford Tractor Company and who has resided in Kirin for some months past; two Chinese employees of the Chinese postal service at Changchun; a Chinese employee of the postal service, an American, three American returned students, a police inspector, and a Chinese employee of the British-American Tobacco Company, all residing at Kirin; transmitted to magistrate at Tunhwa and by the Commissioner for Foreign Affairs and a Chinese official connected with the Telephone Administration at Harbin.

4. On October 9th we informed Mr. Ishii that we had learned of this report and he states there are regulations that no Japanese governmental establishment should interfere with foreign governments. On October 10th Salisbury spoke to the Mitsui official at Changchun in regard to these reports and was told first that the Japanese military forces aided Hsi to form a new government and, later, that it was Hsi's ambition which caused him to form a new government.

When Salisbury asked the Japanese Consul at Changchun about this the Consul hesitated for a moment and said: "Did you discuss this with Mr. Ishii?" The Consul did not deny or affirm the report. In none of these instances could the inquiry be pressed because of the apparent disinclination of the Japanese to discuss this matter.

6. [*sic*] It might be presented here that none of the Japanese military nor consular officers with whom we spoke at Changchun and Kirin volunteered to cooperate with us by official information, except Major Hosoki who limited his voluntary explanations to personal knowledge of Japanese attacks on Chinese troops at Nanling and Kuanchengtze. The Japanese officials however were polite and hospitable in a social way, but indirectly showed much interest in the people we talked with and in our movements.

On October 8th we called at the residence of General Hsi Chia and were shown into a reception room. One of the Japanese soldiers on guard went into the residence and shortly we were informed that Hsi would receive us at [his] office a little later. We then called at his yamen where Japanese soldiers, who were also on guard at the entrances, were very much in evidence. After considerable delay, during which two Japanese in civilian clothes, without being ushered in, abruptly entered the reception room, looked at us and inquired of the attendants who we were, we were received by Hsi in a room in which three secretaries made simultaneous notes of all that was said. Hsi, a man of about 40, looked as if he were suffering from a strain. We made certain usual conventional remarks called for on a first visit and received assurance of protection while travelling to Tunhwa. Attending Hsi as interpreter was Liu Chun-fen, who was interpreter during the Tamon-Hsi interviews and who was recently made manager of the Yung Heng Provincial Bank. Hsi desired me [to] say nothing in regard to making a return call or excusing him therefrom. From all appearances, he is being closely watched by the Japanese, who do not give him an opportunity to act independently.

7. On October 7th we called on Major General Amano who stated that he was constructing an airdrome just north of Kirin because the Japanese Army needed one there, that he had about 1,500 soldiers in

Kirin, that some of these would soon be leaving for Changchun and that he would not leave Kirin until ordered to do so by his superior officers. He added that the Chinese had removed parts from the wireless stations and he had no experts to repair and operate same, although he probably would send for some.

8. The larger stations of the Kirin-Changchun Railway are guarded by Japanese Railway guards and over some are flying the Japanese flag. Small bodies of Japanese troops are to be seen moving back and forth on the trains.

9. Kirin city is guarded effectually day and night by Japanese soldiers and gendarmes, under whom are some armed Chinese police. Business is bad. Banks are permitted to remain open a few hours a day, but the Japanese military, according to advices to reliable Chinese authority, do not allow Provincial Government funds to be sent to pay the wages of the Chinese soldiers outside the city. Chinese are leaving the city for Changchun and points south. The Japanese command has issued many proclamations which indicate that the Japanese Army is the ruling organization and that the Chinese and Japanese residents will benefit through its rule.

10. The Japanese Consul General gave us [to] understand that the reason for the Japanese military occupation of the Kirin-Changchun Railway and Kirin city (and also the Kirin-Tunhwa Railway and Tunhwa) was the protection of Japanese lives and property. The Chinese and one American we interviewed stated that there was no unrest nor anti-Japanese movement in Kirin city before the Japanese troops came. We believe that the 1,000 Japanese residents were fearful of Chinese attacks, but it appears that it would have been more reasonable and economical to have withdrawn these residents 3 hours by rail to the South Manchuria Railway zone than to have sent troops to occupy in a military sense this city of 100,000 Chinese and a railway, which, although financed by the Japanese, was run and policed by Chinese. Up to the present time the Japanese have given no indication of withdrawing from Kirin. They stated to us that they did not think Hsi's Government strong enough as yet to protect the city from the Chinese troops which left the city and which are now without funds. The circle is vicious. The coming of the Japanese military caused these troops to leave and are now, according to reliable information, refusing to allow the Chinese authorities to use government funds to support them. I am convinced they will soon become brigands against whom it will be necessary to maintain a Japanese garrison at Kirin. Unless some provision is made for the upkeep of these Chinese troops or of a strong Chinese garrison in the city, it would be dangerous to Kirin if the Japanese troops withdrew.

[11?] The thinking Chinese at Kirin feel bitter against the Japanese military on account of their actions, although the Japanese soldiers have conducted themselves correctly and are attempting to ingratiate themselves into the good graces of the Chinese common people. The latter are extremely afraid of the Japanese soldiers.

12. According to information received by us while at Tunhwa from the evening of October 8th to the morning of October 14th as guests of magistrate Liu Hsing-pei, the Chinese garrison at Tunhwa numbering about 500 left that city of about 10,000 people on September 22nd in order to avoid a conflict with the Japanese troops, 200 of

whom arrived on September 23rd. The latter, after occupying the Kirin-Tunhwa Railway, disarmed the Tunhwa Chinese police, occupied the barracks and governmental establishments, and released from the Chinese jail 49 Korean prisoners, who have extraterritorial rights, charged with being Communists (a large number were also on duty at Kirin). They left for Kirin on October 5th taking with them the 18 Japanese residents of Tunhwa, some rifles and some Chinese military coats. The Chinese at Tunhwa believed that the news of our coming had caused the Japanese to evacuate the town and railway, and they hoped that something might be done to prevent the return of the Japanese tyrants. The Chinese were much disturbed by the arrival of the Japanese soldiers.

13. In our presence Magistrate Liu telephoned to the Chinese garrison commander at Yenching and was informed by the latter [that] the two divisions of Japanese troops, fully equipped and supplied to build the Tunhwa-Kwaiwei Railway, were stationed on the Korean side of the Tumen River, ready to cross at any moment. There was no evidence that the Japanese were planning to build this railway from Tunhwa eastward. The telegraph line to Harbin station, Yenching and Tungning was in operation.

14. There was no justification for this military seizure of the Kirin-Tunhwa Railway and of Tunhwa in order to protect the lives of 18 Japanese and Koreans, who had few interests in Tunhwa and who might have been evacuated easily to Changchun, in case they were in danger.

15. On October 9th there appeared to be no reason to believe that the Chinese inhabitants of Tunhwa were in danger of suffering from brigand attacks, as it had a local guard and a police force amounting to several hundred persons and as the magistrate was attempting to persuade the 500 Chinese soldiers who left to return to their barracks at Tunhwa.

16. After much deliberation we accepted the offer from the Japanese at Kirin to provide us with a guard to and from Tunhwa. We felt that the chances of brigand attack would be fewer if we had a Japanese guard with us. It is natural to presume that the Japanese military would have made much capital for themselves from a brigand attack upon us. The magistrate understood our motives and the Chinese at Tunhwa were not offended by our action in this respect."

Repeated Tokyo.

For the Minister :
ENGERT

793.94/2071 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, October 13, 1931—11 a. m.
[Received October 13—7:50 a. m.]

183. Department's 194 of October 11, 7 p. m.²⁵ I was unable to get an appointment with the Foreign Minister yesterday and as there is a

²⁵ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 20; by this telegram the Chargé was instructed to request further information from the Foreign Minister regarding Chinchow bombings.

Cabinet meeting today I saw the Vice Minister late yesterday afternoon and left the memorandum with him. He told me that he would see that Baron Shidehara got it before leaving if possible.

I believe the Government realizes that the incident is one that cannot be minimized or explained away but they are handicapped by the fact that the General Staff is not subordinate to the Minister of War, who has control of administration and supplies but not of strategy and tactics. I expect to hear from the Minister soon.

In previous times I have referred to the desire of the Foreign Minister to negotiate direct with the Chinese. Frankly I believe that this is the best solution. The situation presents so many anomalies that attempts to settle it by outside powers are likely to do more harm than good. Both China and Japan are fixed in this part of the world and they will have to get along as neighbors as best they can. If we can help them to get together peacefully we will be doing them a service. We cannot sit in judgment on them or force a settlement that will be lasting. I venture to urge therefore that every effort be made to find a formula that will enable them to negotiate directly with each other to their own benefit and as an example to the world. I realize that this may be difficult but they must face each other in the emergency, if for no other reason than that geography compels them to. We can help best it seems to me by insisting that they settle their differences. It may well be that an opportunity to air their grievances may do them both good by relieving their minds; but the final settlement will have to be made by China and Japan. I can see no alternative in the long run.

NEVILLE

793.94/2060 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, October 13, 1931—11 a. m.

88. For the Minister: Legation's 747, October 12, 4 p. m., and Consul General's October 10, 6 p. m., to Legation, transmitted therein.

The following is the text of the statement given to the press on October 11, 1931 for publication:

"On October 9, 1931, the Secretary of State sent to the American Consulate at Geneva,³⁶ for communication to the Secretary-General of the League of Nations, a message as follows:—

I believe that our co-operation in the future handling of this difficult matter should proceed along the course which has been followed ever since the first outbreak of the trouble fortunately found the

³⁶ Telegram No. 73, October 9, 1931, 6 p. m., *ibid.*, p. 17.

Assembly and Council of the League of Nations in session. The Council has deliberated long and earnestly on this matter and the Covenant of the League of Nations provides permanent and already tested machinery for handling such issues as between States members of the League. Both the Chinese and Japanese have presented and argued their cases before the Council, and the world has been informed through published accounts with regard to the proceedings there.³⁷ The Council has formulated conclusions and outlined a course of action to be followed by the disputants; and as the said disputants have made commitments to the Council, it is most desirable that the League in no way relax its vigilance and in no way fail to assert all the pressure and authority within its competence towards regulating the action of China and Japan in the premises. On its part the American Government acting independently through its diplomatic representatives will endeavor to re-inforce what the League does and will make clear that it has a keen interest in the matter and is not oblivious to the obligations which the disputants have assumed to their fellow signatories in the Pact of Paris as well as in the Nine Power Pact should a time arise when it would seem advisable to bring forward those obligations. By this course we avoid any danger of embarrassing the League in the course to which it is now committed."

Repeat to Tokyo.

STIMSON

793.94/2049 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 13, 1931—11 a. m.

86. Reference the penultimate paragraph your 180, October 11, 11 p. m. You should in strict confidence discuss with Drummond the following:

In the way of inducing the Chinese and Japanese to enter into direct negotiations the greatest obstacle appears to be that, while the stronger party, Japan, professes willingness to negotiate, the weaker party, China, which feels at a disadvantage on account of a disparity of strength and the loss in position incurred already in the course of the current Manchurian encounter, is so apprehensive concerning concessions it would be obliged to make that it feels entirely unable to enter directly into negotiations with Japan.

I have a strictly confidential suggestion to offer. I should like Drummond to consider this and, if he sees any virtue in it, to make it his own idea, doing what he is able with it. After the 1919 Peace Conference, as the Shantung question stood at that time, when China and Japan were contending over it, the Chinese, being afraid, declined

³⁷For minutes of the proceedings, see League of Nations, *Official Journal*, December, 1931, pp. 2265-2274; 2279-2285; 2289-2293; 2307-2309.

to negotiate concerning it with the Japanese until it was finally arranged to have them negotiate with friendly observers present. Then, in the course of the Washington Conference, with the help of Messrs. Arthur J. Balfour and Charles E. Hughes and with representatives of these delegates present and assisting, the Chinese and Japanese succeeded in their negotiations by concluding an agreement.

In the present situation, it occurs to me, the suggestion to the Chinese and Japanese would be warrantable that their representatives should meet with friendly observers present and should, in such presence, at least make an attempt at adjusting their differences and coming to an agreement. If and when such a suggestion were put forward as a proposal, I feel it should originate in and be made by the League Council, for two reasons, namely, first, because this whole question is in fact, and rightly, being dealt with by the League primarily and, second, because the idea, coming from this source, would be received by at least one of the disputants with less initial resentment than would be the case if the idea were put forward by this Government or were known to have had its conception in this country.

I should like to have Drummond's views as to this; should he see fit to make the suggestion his own, he may go ahead with it, resting assured that I will give my support to such a procedure if and when the Council chooses to suggest it.

I enjoin absolute secrecy upon Drummond regarding the fact that I am submitting this idea to him for consideration.

STIMSON

793.94/2077 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 13, 1931—noon.

[Received October 13—11 a. m.]

188. With reference to my telephone conversation yesterday with you,³⁸ last night I talked with Drummond and again this morning upon receiving your 85, October 12, 6 p. m., in regard to your views on a Kellogg Pact appeal.

Your position now is clearly understood by him, and while it is too early yet to state precisely what will eventuate, I expect developments here to be shaped along lines of your policy. All developments will be reported to you as rapidly as they take place. One point I desire at this time to make clear to you. If I am invited to a seat at the

³⁸ Memorandum of conversation not printed.

Council table, provided the Kellogg Pact question is raised, it will be (in accordance with an established precedent of the League) not as a member of the Council but in a capacity solely of following the proceedings and taking part in the discussions as an impartial friend. This I think you will deem to be quite [essential?].

If I do act in this capacity, I will strictly follow the instructions given me in this respect, which I feel now are completely clear to me.

In addition, I shall be careful not to deliver my acceptance of such an invitation until you have been notified by me of my intention and have been able to give it publicity at Washington.

GILBERT

793.94/20753

*Memorandum of Trans-Atlantic Telephone Conversation*³⁹

[WASHINGTON,] October 13, 1931.

GILBERT: Everything is going your way here.

SECRETARY: Have you been invited yet?

GILBERT: No sir, but the situation here has entirely changed since I had my conversation with you⁴⁰ and the clarifying telegram which you sent me.⁴¹

SECRETARY: In what way?

GILBERT: As regards the two items we discussed the other day, I will dispose of the simpler one first. I explained your position regarding military information to Drummond. He understands it now and fully agrees with the wisdom of your withholding the source. In the other respect about Drummond's views regarding a possible conflict in the Kellogg Pact and Council action there was a meeting this morning of the Committee of five. After that meeting Drummond told me that he was very glad to say he had been entirely wrong; that each of the five unanimously felt there was no conflict whatsoever; that there was no reason why the two actions could not go on simultaneously. It was a very satisfactory conversation. Yesterday, I expressed Drummond's personal opinion to you—I felt it was my duty to send his opinion to you. The situation is developing very fast. Briand is to bring forward the Kellogg Pact in the Council. It will probably be supported by the other Council members but that is not arranged yet. Then the United States will be mentioned not as a signatory but particularly in the sense of a proponent of the Pact,

³⁹ Between Mr. Stimson in Washington and Mr. Gilbert in Geneva, October 13, 1931, 1:10 p. m.

⁴⁰ October 12, 10 a. m., E. S. T.; memorandum of conversation not printed.

⁴¹ See telegrams No. 83 and No. 85 of October 12, 11 a. m. and 6 p. m., pp. 159 and 167.

as an initiator. That fits in with this particular situation and makes a peculiar reason for our having a particular interest in it. When that is done, there will be a suggestion by Briand or possibly Lord Reading that the United States in view of its peculiar interest will be asked to join in the discussion.

SECRETARY: That means you will be invited to come in.

GILBERT: I cannot say positively.

SECRETARY: In case you are invited to come in I want you to understand this. I want you to be very careful so as to avoid the danger which Drummond feared. In invoking the Pact of Paris, in case it is invoked, I have always had in mind that it should be done as a warning only, or as a caution against a future act of war which has been anticipated or feared and not at all as implying a decision that such an act has already taken place. I agree with Mr. Drummond that it would be dangerous to invoke the Pact of Paris in such a way as to indicate that war has already taken place. I want you to state that emphatically to the Council if it comes up. Do you understand?

GILBERT: I am quite certain that I do understand.

SECRETARY: You see if those people say that an act of war has already taken place it would open the whole question of sanctions, with which we have nothing to do.

GILBERT: They are avoiding, of course, making any sanctions.

SECRETARY: They may have this perfectly clear in mind but I want—

GILBERT: As a warning to the two disputants not to in the future commit an act of war and not as a protest or a decision that they have already done so.

GILBERT: Of course, when I am called, what I will do presumably, after answering Mr. Briand's greeting, is make an opening statement. In view of the delicacy of the situation and possible misinterpretation of words I would appreciate it if such a statement could be telegraphed to me.

SECRETARY: If possible, but it is pretty difficult.

GILBERT: Very difficult. I could write it if you prefer.

SECRETARY: Your telegram which came today,⁴² giving your conception of your position there, is entirely correct and I am just confirming it. You are to sit there merely as an observer, if you are invited, on matters which do not relate to the Pact of Paris.

GILBERT: They have had great difficulty in working on that phase. They first thought they could have a separate Council meeting just for that situation. There are only two items on the agenda. When the Pact of Paris is not under discussion, Briand would protect me en-

⁴² *Supra.*

tirely. What they think will happen is this. They are looking more than anything else I understand to the psychological effect and they believe that if I make an opening statement that will probably be all that will be necessary. Then the other Ministers will make statements, leaving out the question of our invoking the Pact of Paris at Geneva, which is in line with your policy as I understand it. Could I have an opening statement?

SECRETARY: When will the Council meet? Tomorrow?

GILBERT: I believe it will not meet until Thursday.

SECRETARY: I was a little afraid that a statement sent you would be narrowing and cramp your attitude. I do not know exactly the situation there.

GILBERT: I would naturally phrase the words so as to follow what Briand would say. I know about what he is going to say now. This has been drawn up by one of his advisers.

SECRETARY: Read it.

GILBERT: "The representative of the Chinese Government indicated——" I must say in advance that the Chinese Government mentioned today the Kellogg Pact. That is what Briand bases his reference on.

[Here follows text quoted in telegram No. 194, October 13, 8 p. m., from the Consul at Geneva, printed on page 187.]

SECRETARY: Cable that on—as quickly as you can.

GILBERT: Mr. Briand is going to work with me tomorrow. This will ease the situation. He understands your feeling and is going to develop the whole situation along the lines of your policy. His adviser is fully in accord.

SECRETARY: What does Briand know about my policy?

GILBERT: We had to intimate that if we were asked that we would be willing to sit at the table. It would seem more desirable that no separate action of any kind be taken by the United States so as to assure the minds of the people that we are acting in the general line on this situation. Your statement to the League that you approved of its action so far made this clear. Briand said, "I see the position of the Secretary of State clearly."

GILBERT: I am perfectly willing to form my statement in any way agreeable to you. I cannot say what Briand will do tomorrow.

SECRETARY: The next thing is this. The telegrams that have come in today apparently make a little change in the situation; there has been somewhat of a change in this respect in that the Japanese seem to be more conciliatory today and more inclined to the solution which the League is apparently anticipating according to your cables: namely, by direct negotiation between China and

Japan. I do not want to convey anything that I have said in suggesting action in regard to the Pact of Paris to mean that I think we ought in all events and regardless of consequences to push ahead with an invocation of that pact. That is a matter for the judgment of the gentlemen who are meeting in Geneva and who are assuming the responsibility of invoking the Pact.

GILBERT: Am I permitted to express your views to Lord Reading also?

SECRETARY: It is very important that you should.

GILBERT: I have not seen Lord Reading yet but I believe he is coming to work with Briand.

SECRETARY: One thing which would be dangerous would be for me here in Washington, three thousand miles away, to try to insist upon my views or any views about the invocation of the Pact. The situation is changing from day to day. About the only instruction I can give to you is that it has seemed that it might become advisable to do it, but that ought to be a matter of discussion, and it ought to depend upon what the facts are at the time it finally comes up. All I wanted to have understood was that we stood ready to consider it, in such a discussion, as a matter which, in case it should be decided to invoke it, we would feel that we could join, and join in the way in which I have suggested—as a warning to the future and not as a decision as to the past.

GILBERT: The Council could not invoke the Pact.

SECRETARY: But its members could.

GILBERT: My opinion is that the matter would be left with a statement that if conditions are not improved shortly it would be necessary to invoke the Pact. In other words, these gentlemen at the Council table are also speaking for their governments and some have a dual capacity in the eyes of the world. They would take the initiative if it became necessary to invoke the Pact and whatever they decided upon at the Council table would be passed on by their governments.

GILBERT: When I talked to you yesterday, I was very much handicapped by the fact that I had only talked to Drummond and Drummond I feel was wrong and he admitted to me today that he had had an opinion which he now believes was erroneous. He said, "I am glad to admit it." I was apparently condemning your views—but this was not really the case. I felt it was my duty to tell you Drummond's views and often I repeated myself because I thought you had not heard me.

SECRETARY: That is all right now. The situation seems to have ameliorated a little so far as the Japanese are concerned.

GILBERT: When you called me I was at the Council and heard there that the situation was improving with respect to the Japanese. The Japanese delegate is so hard to hear that one must talk to someone near him to know what really did happen.

SECRETARY: The reason I spoke of it is that it may have a bearing as to whether the Pact of Paris may be invoked and it might make that unnecessary eventually.

GILBERT: Any statement made by anyone would be that they hoped the situation would not make it necessary.

SECRETARY: I was not speaking from a prejudgment that it should be done. I have no desire to force any such decision at all.

GILBERT: I have been very careful to explain that. Considering the complications of it, if I could have a statement by tomorrow night here in your own words and look it over it would give me a much greater feeling of confidence, as the phraseology is quite important.

SECRETARY: I will try to do that.

GILBERT: Do you wish me to cable the invitation for you to formulate the reply?

SECRETARY: No. You are authorized, as I told you yesterday, to accept the invitation and prepare the reply. Is there any likelihood, that you have heard, of the other treaty, the Nine Power Pact, coming up for discussion?

GILBERT: I have not heard the Nine Power Pact mentioned in Geneva except for the newspaper speculation which followed your statement to the League in which you mentioned it.

SECRETARY: If that should come up and it was desirable for you to talk about it I might extend your authority to that. If it has not been discussed, bringing it up might complicate matters.

GILBERT: The general feeling is that it should not be discussed in view of the fact that the Pact of Paris fits into the picture much better, because all members of the Council are signatories. In the case of the Nine Power Pact that is not so.

SECRETARY: In my announcement and my telegram to you I will confine your authority to the Pact of Paris.

GILBERT: That will be much better. Can I expect a statement to make to the Council?

SECRETARY: I will try to get the opening statement to you by tomorrow.

GILBERT: I appreciate the confidence you are showing in me in this, Sir.

SECRETARY: It is a very delicate situation, but you are acting with great circumspection. Goodbye.

793.94/2037 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, October 13, 1931—3 p. m.

91. For the Minister: Legation's 740, October 10 [11], 8 a. m. In view of your 748, October 12, 8 p. m., you are authorized in reply to inform the Acting Minister of Foreign Affairs that the American Government is expecting momentarily to receive from American official sources a full report with regard to the incident at Chinchow.

STIMSON

793.94/2093 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 13, 1931—4 p. m.

[Received 9:34 p. m.]

192. Drummond has handed me for communication to you the following message from the Japanese Government dated October 12 which has been circulated to the Members of the Council:

"In view of the very strained situation created by the development of the anti-Japanese agitation in the towns along the Yangtze, the Japanese Government decided to send to Shanghai the cruiser *Tsushima* with four torpedo boats and, subsequently on October 8, the cruisers *Tenryu* and *Tokiwa* together with two 100-marine fusiliers. However, the Government gave formal instructions to the commander of these naval forces to consult the Japanese diplomatic and consular officers before landing any fusiliers should events appear to call for such action. The sole object of these purely precautionary measures, which are not in any way exceptional and are merely in accordance with the custom followed by nations in such cases, is [to] protect Japanese residents if necessary. Needless to say the Japanese Government wishes to avoid as far as possible any act likely to upset or irritate Chinese public opinion and consequently it will not be necessary to land the marine fusiliers in question if the Chinese authorities take effective steps to combat the anti-Japanese movement."

GILBERT

793.94/2077 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 13, 1931—5 p. m.

87. Your 188, October 13, noon. Your views therein are approved. If the League Council should invite the United States to take part in its discussion of the present Manchurian situation, authorization is

given you to accept such invitation, to sit in any discussion of this subject as an observer and auditor, and to participate in the Council discussions when they relate to possible application of the Kellogg Pact, of which treaty the United States is a signatory.

STIMSON

793.94/2090 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 13, 1931—5 p. m.

[Received 6:11 p. m.]

193. The Council met this noon under the presidency of Madariaga.⁴³ Madariaga handed the chairmanship over to Briand who made certain general declarations as to the necessity for the extraordinary session.

The discussion was confined to the Chinese statement of the case. Sze explained that the Japanese actions subsequent to the last session, particularly the bombing of Chinchow, prompted his request for an immediate convocation of the Council. He quoted from recent speeches by President Chiang Kai-shek as a proof that Chinese policy still remained one of "dignified calm" and implicit trust in the League for settlement. A failure in this case, he said, would involve the "tragic calm [*collapse*]" of the Covenant and the Briand-Kellogg Pact and also a series of "diplomatic [*dire*] consequences throughout the Far East." He declared that if the League and the United States failed to cooperate successfully to avert this threat to peace the first result would be the extinction of the disarmament movement and all ideals of international security. Sze made no outright mention of a resort to war in the event of such failure but his remarks might be interpreted as conveying that implication.

The Japanese representative will be heard at the second meeting at 3:30 this afternoon.

GILBERT

793.94/2107a : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 13, 1931—6 p. m.

88. In response to your telephonic request, I authorize you, if you are invited to take part in the Council's discussions, to make an opening statement of your position as follows:⁴⁴

⁴³ Spanish representative on the League of Nations Council

⁴⁴ Quotation not paraphrased.

"I thank you for your invitation, at this moment of deep international concern, to sit in your deliberations and participate in your discussions as far as the Pact of Paris, to which my country is a party, is concerned. My country does not seek to intrude into or express any opinion in respect to such measures as you have under consideration as representatives of the League of Nations. Acting independently and through diplomatic channels my Government has already sought to signify its approval and moral support of your effort in this capacity to bring about a peaceful solution of the unfortunate controversy in Manchuria. In your deliberations as to the application of the machinery of the Covenant of the League of Nations we can, of course, take no part.

But the Pact of Paris, bearing as it does the signature of the President of this meeting together with that of our former Secretary of State as joint proponents, represents to us in America an effective effort to marshal the public opinion of the world behind the use solely of pacific means in the solution of controversies between the nations of this earth. We feel not only that this public opinion is a most potent force in the domestic affairs of every nation, but that it is of constantly growing import and influence in the mutual relations of the members of the family of nations.

The timely exercise of the power of such opinion may be effective to prevent a breach of international peace of worldwide significance. We assume that this may be the reason why the invocation of this treaty has been suggested by this conference, and I have been directed by my government to accept your invitation in order that we may most easily and effectively take common counsel with you on the subject. It is our earnest hope that by its action this conference may assist in the fruition of the efforts which are being made by the disputants themselves to adjust by peaceful methods their own differences."

You should in the course of the discussions make it perfectly clear to the League conferees that this Government has not prejudged the action in regard to the Kellogg Pact which should be taken. With a situation changing from day to day in Manchuria, this Government does not wish to be considered to be insistent as to what may be ultimately found to be the wisest course of procedure. It is believed that mobilizing world opinion against a breach of the peace such as may be found possible under the Pact may prove very useful in bringing about a peaceful solution in Manchuria. If, however, during the course of your deliberations such a peaceful solution should seem to be approaching without the Pact's invocation, this Government certainly would not wish to press it unduly.

793.94/2101 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 13, 1931—6 p. m.

[Received 8:40 p. m.⁴⁵]

763. Following from Hanson [and] Salisbury:

"October 12, noon. Following is a gist of the information contained in a letter dated October 8th, 1931, addressed to Hanson at Kuanchengtze by Consul General Myers of Mukden:

1. With respect to civil administration in the Chinese areas of Mukden, there now exists a civil municipal government with a Japanese mayor (Doihara) and Japanese chiefs of the various major departments and bureaus, including police department. During past week approximately 1,500 Chinese police have been put into service by this municipal government. Japanese military police authorities and gendarmes however still might be considered effective police weapon of the municipal area. The extent to which Japanese control makes itself felt is shown by the fact that the special delegate of the Ministry for Foreign Affairs (Chinese) must obtain Japanese approval prior to issuing visas for foreign passports.

A return to the *status quo ante* in the Mukden municipality is certainly not an immediate possibility.

2. Complete withdrawal of the Japanese soldiers to the railway zone at this time with conditions as unsettled as they are would not only jeopardize lives and property of Japanese but also that of foreigners and Chinese. An effective Chinese municipal administration and police force must first be established. Armed robbery is common both within Mukden and in outlying areas. Chinese robbers and brigands are taking full advantage of the situation, some Chinese homes in the city have been completely cleaned out and the Mukden municipal Bank of Chosen was robbed of 80,000 yen according to an official report of Japanese military headquarters. Resentment against Japanese would without doubt make withdrawal of Japanese forces difficult. However, indiscriminate robbery and general insecurity, which would probably follow upon their withdrawal unless an effective Chinese administration can be immediately established, which is most unlikely, seem to be major problem.

3. Mukden radio station has not been destroyed, and Japanese Consul General has declared that whatever damage plant may have suffered is only minor and that service might be resumed without difficulty. Consul Vincent visited transmitting station and central control office.

4. He found a former Chinese watchman who stated that, although there had been considerable petty thievery, equipment had not been damaged. It was observed however that one large cable had been cut; at latter place he found detachment of Japanese soldiers billeted and was informed that it was impossible to transmit messages. Replies of the Japanese Consul General to representations of the Mukden Consulate General concerning resumption of service has so far elic-

⁴⁵ Telegram in three sections

ited Nanking [*merely?*] a statement to the effect that matter is under consideration by the military authorities.["]]

For the Minister:

ENGERT

793.94/2097: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 13, 1931—8 p. m.

[Received October 13—7:50 p. m.]

194. Complying with the request you made in our telephone conversation, just concluded, I transmit below the draft text which an assistant of Briand prepared of a statement he is to make before the League Council when introducing discussion of the relationship of Council action to the Kellogg Pact.⁴⁶

"The representative of the Chinese Government indicated that in his opinion the question which was before the Council was of the greatest concern not only to the members of the League but also to all the powers signatory to the Pact of Paris. This statement if [*is*] indeed true since article 2 of that Pact is couched as follows (read article 2).

All the signatories to the Pact are therefore interested in securing a settlement of the present dispute by pacific means but above all the United States of America, with the then Secretary of State of which country I was proud to be associated as a joint author of the Pact of Paris.

I propose therefore, in view of the fact that the United States was a proponent party to the Pact and further that the Secretary of State has expressed his wholehearted sympathy with the attitude of the League in the Sino-Japanese dispute with which we are dealing, that we should invite the United States Government to send a representative to be associated to [*with?*] our deliberations so as to be in a position to consider with us the relationship between the present situation and the provisions of the Pact."

May I make it perfectly clear that I do not have any direct word from Briand that this wording will be used in the statement. However, I believe it may be assumed that the same general tenor will prevail.

May I suggest that this will be helpful to you in the preparation of a statement to be made by me before the Council, since I assume the program will be so arranged that the American statement will follow closely upon Briand's.

GILBERT

⁴⁶Quotation not paraphrased.

793.94/2092 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 13, 1931—9 p.m.

[Received October 13—8:55 p.m.]

195. I have just learned that strenuous objections (behind the scenes, naturally) are being made by the Japanese to the United States joining in the Council's deliberations under any condition. An invitation to the United States would, I understand, be brought up under paragraph 2, article 5 of the League Covenant, and the juridical position, so I am informed, is that the extension of such an invitation cannot technically be prevented by Japan, since customarily such action is decided by a majority vote. As the question has not developed sufficiently, I would not venture to predict the outcome.

GILBERT

793.94/2094 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 13, 1931—midnight.

[Received October 13—11:38 p.m.]

764. Reuter report from Nanking [, October] 12, states that at a political meeting this [*that?*] morning General Chiang Kai-shek animadverted strongly on the Sino-Japanese situation.

He said he hoped League of Nations would take steps for just settlement of imbroglio and prevent almost inevitable war. Trusted League would take proper measures to bring home to Japan her errors in refusing to abide by League's decisions and in occupying Chinese territory without justifiable grounds.

General Chiang declared that National Government of China had appealed to League because being member of it China was under obligations to comply with provisions of Covenant.

He declared Japanese allegation that China went to League for protection was false.

National Government's patience had been tested to last degree. If League failed, China would take matter into her own hands. "China respects Covenant of League and Kellogg Pact but if signatories to League and Kellogg Pact fail to uphold their sacred duties China will not hesitate to make the supreme sacrifice of bankrupting country for half century to go to war to uphold dignity and sacred rights of international agreements and safeguard world peace."

For the Minister :

ENGERT

793.94/2108 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 14, 1931—9 a. m.

[Received 1:10 p. m.]

196. Consulate's 193, October 13, 5 p. m. At the Council meeting last night the discussion was immediately opened with a long statement by Japanese representative. This statement can be divided into two parts, one of which consisted of a detailed historical account of the Manchurian problem, the Japanese rights involved and the increasing provocations to which the Japanese Government has been subjected in that region. The second part was largely in response to the Chinese statements in the morning session of the Council and declared that in many parts of China, Japanese nationals were in a position of increasing danger on account of the rising tide of anti-Japanese agitation. No further explanations of the Chinchow incident than those already given out by the Japanese Government were made. With regard to policy the position taken by the Japanese was essentially the same as that heretofore reported. The troops would be withdrawn as the protection of the Japanese lives and property was assured. Meanwhile, the Japanese Government is ready to enter into direct negotiations in the spirit of the Council resolution of September 30th.

Sze replied that the anti-Japanese agitation was the result of the occupation of Chinese territory and the bombing of defenseless Chinese cities, "suppress the cause and the agitation will cease." He then read two telegrams which he had just received regarding the bombing that very day of two towns Tahushan 150 kilometers and Koupangtze 172 kilometers from Mukden. He also read a telegram from Sherwood Eddy in the same sense as that referred to in Consulate's 165, October 9, 11 a. m. Regarding direct negotiations he declared it absolutely useless to discuss such negotiations as long as Japanese troops occupied Chinese territory and as long as reparations had not been arranged. He then read some additional information concerning the Chinchow incident.

In reply the Japanese representative declared that Japanese airplanes had been fired upon at Chinchow and had replied with bombs. Sze replied that there were no anti-aircraft guns in or near Chinchow.

Lord Reading then asked the Japanese delegate to obtain information on the newly reported bombardments. The Japanese representative stated that he would ask his Government for such information.

Briand then made a conciliatory statement recalling the promises of the two countries and declaring that the situation although grave

was not irremediable. He asked to have the assurance that nothing would be done to aggravate the situation further or to complicate the already difficult task of the Council.

GILBERT

793.94/2104 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 14, 1931—1 p. m.
[Received October 14—11:10 a. m.]

197. Sze called on me this morning and said that statements were emanating from various quarters that China was negotiating directly with Japan or was willing to undertake such negotiations. He asked me if I would transmit to you his categorical denial of such statements or such intentions on the part of China.

GILBERT

793.94/2106 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 14, 1931—2 p. m.
[Received October 14—11:45 a. m.]

198. Your 86, October 13, 11 a. m. I imparted it at noon today to Drummond. He informed me that this morning Briand had brought forward in the Committee of Five a suggestion along similar lines, and this is being given consideration. Drummond desired me to report that your views in the premises are being of great aid at this juncture.

GILBERT

793.94/2178

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] October 14, 1931.

When the Japanese Ambassador was talking with me this morning⁴⁷ he said that the sentence in our communication to the League of Nations,⁴⁸ reading as follows,

"The Council has formulated conclusions and outlined a course of action to be followed by the disputants; and as the said disputants

⁴⁷ For memoranda of conversations between Mr. Castle and the Japanese Ambassador on October 14, see *Foreign Relations, Japan, 1931-1941*, vol. I, p. 24.

⁴⁸ Quoted in telegram No. 88, October 13, 1931, 11 a. m., to the Consul General at

have made commitments to the Council, it is most desirable that the League in no way relax its vigilance and in no way fail to assert all the pressure and authority within its competence towards regulating the action of China and Japan in the premises."

had created more or less of a sensation in the Japanese press. The reason for this was our use of the phrase "to assert all the pressure and authority". The trouble comes from the word "pressure". The Japanese press interpreted this as meaning something beyond moral pressure. I told the Ambassador that of course this was complete nonsense; that the sentence quoted applied to both the Japanese and Chinese, and that it obviously could only mean moral pressure, that is, moral pressure and the pressure of public opinion which is a moral pressure. He said that he understood this perfectly, and that he brought it up simply as an illustration of how easily a misunderstanding could arise. He referred to a similar misunderstanding which had arisen in this country on account of Hanihara's use of the expression "grave consequences",⁴⁹ an expression which Hanihara had not used in its diplomatic sense, but the consequences of which had been the Japanese Exclusion Law.⁵⁰ I told the Ambassador that I trusted he would make it quite clear to his Government that in the use of this expression we had no thought in mind except the moral pressure of public opinion.

W[ILLIAM] R. C[ASTLE,] JR.

793 94/2107 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 14, 1931—3 p. m.

[Received October 14—12:32 p. m.]

199. This morning Drummond confidentially informed me that Briand was discussing privately an "ingenious plan" with a few Council members. The resistance of Japan to "neutral observers" being dispatched to Manchuria is a well-known fact. It is Briand's idea to have neutral individuals sent along with Chinese forces which, in carrying out China's commitments, would take over from the Japanese the points they evacuate. A request might be made to this effect to China, and there seems to be little doubt of the Chinese acceding thereto. The duties of such neutrals would be to observe and to report the manner in which Chinese commitments in the premises

⁴⁹ See note of April 10, 1924, from the Japanese Ambassador, *Foreign Relations*, 1924, vol. II, pp. 369, 373; for subsequent explanations, see *ibid.*, pp. 375, 379, 381, 382, 383.

⁵⁰ Approved May 26, 1924; 43 Stat. 153.

were being carried out. To such a procedure the Japanese could scarcely object. The implications of this plan are, I believe, obvious, and your comments, if you care to give any, are solicited by Drummond.

GILBERT

793.94/2123 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, October 14, 1931—4 p. m.

[Received October 15—10 a. m.]

85. Following is Foreign Office copy of Chinese memorandum⁵¹ in reply to Japanese memorandum of October 9th.⁵²

"With reference to the memorandum of the Japanese Government of the 9th instant, the Chinese Government has the honor to make the following observations.

In defiance of international law and in violation of the provisions of the Covenant of the League of Nations as well as the Peace Pact of Paris and the Nine-Power Treaty signed at Washington, Japan has suddenly and without provocation invaded and occupied portions of the Chinese provinces of Liaoning and Kirin, overturned the lawful provincial and district administrations and in the course of the invasion committed many acts of war and others not permitted by international law, even in war, such as the killing of innocent civilians and the bombardment of [un]fortified towns, the bombing of passenger trains, and the removal and seizure of public and private property, et cetera.

China and Japan being both bound by the above-mentioned international agreements imposing on the signatories the obligation to seek for the peaceful settlement of all disputes, China at once appealed to the Council of the League of Nations. The Council called upon the Japanese Government to give orders for immediate withdrawal of their troops from the areas occupied since September 18th and decided to accept the solemn pledge given by Japan to comply with its request fixing its further meeting for October 14th, should by that time the pledge remain un[ful]filled.

The Chinese Government refrained from the very beginning from any and every act of hostility, going to the length of strictly ordering all the military forces not to offer resistance in whatever form to the continuous advance of the Japanese troops, and in spite of provocative actions increasing every day intensely [*in intensity*] and embracing ever wider areas.

At the same time the strictest discipline was imposed for [*on*] the nation for the protection in every way of the lives and property of Japanese residents within Chinese territory under Chinese administration and the fact that no untoward incident has occurred anywhere

⁵¹ Text of the memorandum, dated October 12, corrected on basis of text transmitted to the Department by the Consul at Geneva as an enclosure to his despatch No. 177 Political, November 16, 1931 (793.94/2972).

⁵² See telegram No. 736, October 10, noon, from the Minister in China, p. 151.

in the vast area under Chinese jurisdiction proves conclusively that the undertaking given by the Chinese Government to the Council of the League of Nations is being observed most scrupulously. Repeated Government orders and proclamations have been confined [*have confined*] the righteous indignation of our people within lawful bounds, and the mandate of the Chinese Government issued on October 7th ordering all local authorities to give full protection to foreign nationals and to prevent undesirable elements from taking advantage of the situation by inciting any unlawful actions, further strengthened government injunctions just at the time when it became only too obvious that the Japanese Government was not fulfilling its pledge of withdrawal.

Acting upon the resolution of the Council of the League of Nations, the Chinese Government has opposed to this official [*appointed two high officers*] to take over the places to be evacuated and duly notified the Japanese Government and the Council to that effect but the Japanese Government has not yet carried out its declared intention to hand over the places under their occupation to the Chinese authorities. As is shown by the report of a neutral observer, such places as Shenyang, Kirin, Tunhua, Chuliuh, Sinmin, Tienchangtai are all [*still*] under the control of the Japanese troops. Meanwhile these troops keep on killing and wounding innocent citizens and destroying property without the slightest justification.

It must therefore be a matter of surprise to the world that popular indignation in China has limited itself to the mere refusal to purchase Japanese goods. The freedom to choose on [*one's*] purchases is an individual right with which no government interferes and while it is the duty of every government to protect foreign nationals, it is bound neither by any recognized standard of government [*governance*] nor by any principle of international law to prohibit and [*or*] punish the exercise of an elementary right of citizenship. If there be responsibility at all in the matter it entirely lies with the Japanese Government which has by many acts of unfriendliness since the Wanpaoshan incident created the general prejudice against Japanese merchandise.

While the Chinese Government is observing with the greatest scrupulousness the resolution of the Council of the League of Nations by adopting special measures for the protection of Japanese lives and property and by refraining from all acts tending to aggravate the situation, with the result, as already stated, that no untoward incidents have happened to any Japanese subject, the Japanese military have continued their aggressive actions in the North Eastern Provinces which have culminated in the recent air-raid attack on Chinese [*Chinchow*] where the provincial civil authorities of Liaoning have established their provisional offices since the occupation of Shenyang its capture [*capital*]. This act of war as the Japanese Government is aware has led the Council of the League of Nations to decide to meet earlier than on the date originally fixed. The Chinese Government notes with satisfaction the reference made by the Japanese Government to the responsibility of both countries to the League of Nations but desires to point out that it is Japan that has committed during the past 10 days the various acts which have so aggravated the situation that the resolution of the Council of the League of Nations

has failed to be carried out, for which the Chinese Government cannot be held responsible.

The Chinese Government will continue to exert its best [efforts?] to protect the lives and property of Japanese subjects although in the face of the greatest difficulty due to the unceasing aggressive acts on the part of the Japanese troops and will hold the Japanese Government responsible for any unfortunate consequences resulting from the continued employment of military force by Japan as an instrument of her national policy especially in view of the fact that both Governments have presented their cases before the Council of the League of Nations which has prescribed a course of action for the two countries to follow.

Firmly believing that the present lack of understanding and the difficulties in the commercial intercourse between the Chinese and the Japanese people are the inevitable outcome of the numerous unlawful acts of the Japanese troops, the Chinese Government is confident that, should the Japanese Government exert itself to remove the causes that have brought about the present deplorable situation, gratifying results will be secured in the improvement of the relations between the two countries and the maintenance of world peace.

Nanking, October 13th, 1931."

PECK

793.94/2071 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, October 14, 1931—4 p. m.

196. Your 183, October 13, 11 a. m. You appear somewhat to mistake the Department's attitude, for it is attempting neither to "sit in judgment" nor to "force a settlement". When you say the two parties concerned must themselves find a solution, you are quite right. All that the League of Nations is trying to do, and the United States concurs heartily with this aim, is to have the hostilities cease in order that Japan and China may be able to arrive at their own solution without recourse to war. To accomplish the settlement in a peaceful manner directly concerns all of the powers. If this is not recognized by Japan, the latter will find the opinion of virtually all the nations of the world arrayed against her. I think it is important for you to make this clear to Baron Shidehara so that he may understand that this Government has no desire to sit in judgment or to suggest terms of settlement, but has as its sole aim the prevention of hostilities and the encouragement of a solution by direct negotiations.

In support of direct negotiations, the Shantung settlement was suggested to you by Shidehara, and this morning Debuchi brought up the same matter with the Under Secretary, discussing it at some length and pointing out the success of those negotiations. Castle reminded

Debuchi that he had left out a vital point, namely that those negotiations had been attended by neutral observers. The Ambassador remarked he did not know his Government's attitude on this phase of the problem. Castle told him it appeared that Japan might at least be willing, since a neutral commission had been demanded by the Chinese, to admit observers provided the main Japanese point, direct negotiations, was accepted and that obviously some concessions must be made by both sides. I do not desire you to take up with Shidehara this matter, but you may express the foregoing view in the event of his bringing up the matter with you.

STIMSON

793.94/2115 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 14, 1931—7 p. m.

[Received 8:40 p. m.]

200. My 195, October 13, 5 [9] p. m. The Council did not meet today. Council members spent the day in private conversations on the situation.

I have just been informed by Drummond as follows:

The question has been broached informally by Briand to his Council colleagues representing the great powers that the United States be invited to take a seat at the table of the Council if the Kellogg Pact comes under discussion. They unanimously approved it. For reasons of policy, Briand then regarded it as incumbent upon him to take up the question with the parties to the dispute. In reply, Yoshizawa said he would be obliged to consult Tokyo as this was a new point. There appears to be small doubt of Japan's strong objection to the extension of such an invitation; and Yoshizawa's statement that he must ask his Government for instructions is construed to mean he desires at least to delay the taking of this action as long as possible.

The principal members of the Council are anxious to hold a meeting of that group tomorrow and to take up at that time the question of inviting the United States. Japan wishes such a meeting to be put off until October 16, but now it is decided tentatively to hold the meeting at 5 p. m. tomorrow.

Drummond desires that I make clear to you that there was no wish here to delay matters, but it was deemed desirable to allow the Japanese representative an opportunity of communicating with his Government.

I shall report developments.

GILBERT

793.94/2257

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*⁵³

[NANKING,] October 14, 1931.

Please make official denial regarding starting direct negotiations with Japan.

Minister Tsiang only insisted on the immediate withdrawal of troops, made no proposal whatever, and absolutely refused to discuss any plan with the Japanese Foreign Office.

Also deny today's Reuter report that one important Kuomintang member intimated to the Japanese Minister direct negotiations if the League fails.

In making these denials, please call attention to the fact that this is part of the Japanese propaganda designed to throw dust in the eyes of the world.

793.94/2121 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 15, 1931—9 a. m.
[Received October 15—4:20 a. m.⁵⁴]

774. Legation's 767, October 14, 9 a. m.⁵⁵ Colonel Margetts⁵⁶ has just handed me his report regarding Chinchow incident of which following is summary.

At about 2 p. m., October 8th, without any previous warning, 12 Japanese planes flew over the city of Chinchow at estimated altitude about 2,000 feet. They circled city once and then headed for radio station where they began dropping bombs. Flight continued over northeast suburbs and bombs were dropped in the vicinity of the Irish Presbyterian Mission Compound and the French Catholic Mission. Bombing was very promiscuous in the northeast city. Flight then continued toward railroad station and University of Communications. Bombing continued for half an hour during which time between 30 and 36 bombs exploded.

At the time of the raid there were in and about the city 2,000 infantry troops and one regiment field artillery. No anti-aircraft artillery located in the vicinity. All witnesses emphatic in stating that no fire of any kind was directed against the airplanes.

⁵³ Copy of telegram handed by the Chinese Chargé to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on October 16, 1931.

⁵⁴ Telegram in three sections.

⁵⁵ Not printed.

⁵⁶ American Military Attaché in China.

Casualties were 16 killed, 12 seriously wounded and about 30 slightly wounded. Of the wounded 3 have since died including a Russian professor. Only one soldier killed and 2 wounded, all others civilians including several women and children.

Property losses slight, mostly broken windows and scarred walls as most bombs landed in open plots of ground, only 6 hitting residences. No bombs dropped within walls of the Chinese city.

From fragments examined it is believed bombs weighed 40 or 50 pounds with very powerful explosive charge.

University buildings apparently principal objective because they are housing Provincial Government headquarters. Second objective was probably military camp about 3 miles from the center of town where 12 bombs burst but caused little damage.

Although the raiders may have had a military mission evidently little attention was given to modern conventions of ordinary humanity or protection of personal property. It was mere accident that two foreign missions and the railroad hospital which flew two Red Cross flags were not directly hit by bomb. Bursts were so close to them that fragments were found in all three compounds.

Full particulars with photographs by mail.⁵⁷

For the Minister:

ENGERT

793.94/2119 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, October 15, 1931—10 a. m.

[Received October 15—2:24 a. m.]

Arriving here on the 14th, I called upon the Vice Minister for Foreign Affairs and the President of the National Government. During the call on Chiang Kai-shek there were present T. V. Soong and H. H. Kung;⁵⁸ they were all awaiting word of the League's action and asked:

(1) What will the United States attitude be toward the proposal to invoke the Nine-Power Treaty of 1922 if the League fails to accomplish anything?

(2) Will the United States assume the initiative in invoking the Nine-Power Treaty?

Will the Department be able to give me, for use in conversations here, any reaction to these two questions?

⁵⁷ Despatch No. 1217, October 15, not printed; the photographs were forwarded by Col. Margetts to the War Department, as no duplicate set was available (793.94/2564).

⁵⁸ Chinese Minister of Industries.

I informed President Chiang, and later Dr. W. W. Yen,⁵⁹ that when China appealed to the League the initiative had been taken. I said the United States had by no means lost interest in the question but was cooperating with the League in every way possible in the hope of successful action there.

JOHNSON

793.94/2120 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 15, 1931—10 a. m.

[Received October 15—8:30 a. m.]

201. If I take a Council seat in the China-Japan dispute, it might easily lead to the Council President's asking me to join the so-called Committee of Five. As you will recall, this is not a formal Council committee and so far has consisted of the British, French, German, Italian, and Spanish representatives, who were requested by the Council President to assist him in considering the question. If I should sit with this group, of course it would be under exactly the same terms as in the case of sitting at the Council table. I might easily receive the request in the form that the subject for consideration was to be the relationship between the current situation and the Kellogg Pact.

I would appreciate being instructed as to what reply should be made by me to such an invitation in the event of its informal extension to me.

GILBERT

793.94/2120 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 15, 1931—11 a. m.

93. Your 201, October 15, 10 a. m. The purpose of this Government in regard to your cooperation with the League is clearly defined, I think, in the opening statement you have been authorized to make at the Council meeting. Therefore, if you are invited to sit with the Committee of Five, I have no objection provided it is understood that your participation solely concerns the discussion of treaties to which

⁵⁹ Appointed Chinese Minister to United States.

this country is a party. It is the purpose of this Government to co-operate with the efforts of those who now are meeting at Geneva by whatever conference method is most appropriate to secure peace in Manchuria.

STIMSON

793.94/2139 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 15, 1931—9 p. m.
[Received October 15—7:11 p. m.]

202. Department's 90, October 14, 3 p. m.⁶⁰ After protracted private session of Council which has just concluded Drummond informs me as follows:

As expected, the Japanese opposed extending an invitation to the United States to participate within the Council in discussion of the Pact of Paris. No compromise was effected and the Council after exhaustive discussion of Japanese legal objections proceeded to vote on the basis of the question being one of procedure (see Consulate's 195, October 13, 9 p. m.). A resolution was then adopted by which the United States will be invited to participate in such discussions with only the dissenting vote of Japan. It is expected that the invitation will be finally approved and issued some time tomorrow. A Council meeting has been tentatively fixed for 10 a. m. to confirm publicly this decision.

There is still hope that the Japanese at the last moment may withdraw their opposition and thus make the decision unanimous.

GILBERT

793.94/2256

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*⁶²

[NANKING,] October 15, 1931.

Please at once inform the State Department China welcomes most sincerely the participation of an American representative in the deliberations of the Council of the League concerning the Manchuria question.

⁶⁰ Not printed.

⁶² Copy of telegram handed by the Chinese Chargé to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on October 16, 1931.

793.94/2168 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, October 16, 1931—11 a. m.
[Received October 16—4:30 a. m.]

185. I saw the Vice Minister for Foreign Affairs, yesterday afternoon. He referred to a press despatch from Geneva stating that the United States was prepared to have an observer at the League Council meeting and asked me if it was true. I said that I did not know. I added that presumably the United States would do so only if invited and that Japan, having a representative in the Council, would know about it. He said that they had as yet received no such report from Geneva but that communications seemed to be bad as they had only fragmentary reports from Yoshizawa. I do not know how much truth there may be in the press reports in this matter.

My own feeling is that there is not likely to be a war. Japan has no money for a campaign in China and in any case is not prepared to face the odium which would arise from it. China is unable to fight as the country has no organized fighting forces of any military value. Neither side could get any money for warlike activities.

With temper running high on both sides and the Chinese administration in Manchuria in a disorganized condition we must expect a certain number of incidents. I do not believe it will be much more than that. It is unfortunate and trying but it does not amount to a world crisis.

[Paraphrase.] With reference to the Department's 196, October 14, 4 p. m., I think the policy of the Department, to urge moderation on both parties, with the offer to assist in any possible way to get them to negotiate, is the one most likely to bring results. I am sorry if I have inadvertently given any other impression. However, again I venture to urge that this purpose should be the only American concern; that the American Government should not be diverted therefrom in the slightest degree and that the United States should avoid entanglement in League policies because of it. A decided political issue would be raised by such action, to be justified only by the gravest international complication, and, in my opinion, the present situation is not in that category.

I am sure the Japanese do not suspect the motives of the American Government, and the Japanese Vice Minister so assured me, speaking for the Foreign Minister, who, he said, has been sensible all along of the disinterested friendliness of the United States. I have not had an opportunity to talk over the character of any negotiations. [End paraphrase.]

NEVILLE

793.94/2167 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 16, 1931—1 p. m.

[Received October 16—9:40 a. m.]

204. Your 90, October 14, 3 p. m.⁶² Invitation to sit at Council table just handed me. I shall hand acceptance to President of Council at 5 p. m. today. This is 1 hour before time set for the next meeting of the Council. I shall be in attendance at that meeting. Please note, however, that there is always a possibility that the time for any Council meeting may be changed at the last moment.

I am thus giving you all time possible under the circumstances for publicity in Washington for the invitation. The League is releasing text of invitation now and will release text of acceptance here at 5 p. m.

I am telegraphing immediately text of invitation and text of the reply.

Your 88, October 13, 6 p. m. As soon as possible I am also telegraphing text of my opening statement before the Council. In line with your authorization by telephone and in view of changes in my instructions by your 87, October 13, 5 p. m., I have introduced certain changes in the statement which you sent me which I feel will render it more appropriate to the present situation. I beg, therefore, to suggest that you delay giving publicity to my statement until you have received the text.

GILBERT

793.94/2169 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 16, 1931—2 p. m.

[Received October 16—10:37 a. m.]

205. Consulate's 204, October 16, 1 p. m. The following is the text of the invitation addressed to you by the President of the Council (translated in the Consulate).

"I have the honor to inform you that the Council of the League of Nations has approved today the terms of the following proposal which I had the honor to make to it in my capacity as President of the Council.

"In the course of the discussion the opinion has been expressed that the very important question before the Council concerns the fulfillment of obligations arising not only from the Covenant of the League of Nations but also from the Pact of Paris.

⁶² Not printed.

This opinion is certainly well founded, since, in accordance with article 2 of that Pact:

"The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

Foremost among the signatories of the Pact of Paris appear the United States of America. The United States were one of the proponents of the Pact, and I may be allowed to recall that I had the honor to be associated with the then Secretary of State of the United States as joint author. In consequence, the United States may be regarded as being especially interested in insuring a settlement of the present dispute by pacific means.

Moreover the Government of the United States, with which communications regarding the dispute before the Council have already been exchanged, has expressed its whole-hearted sympathy with the attitude of the League of Nations, and has affirmed its desire to reinforce the action of League.

I feel confident that I shall be meeting the wishes of my colleagues in proposing that we should invite the Government of the United States to be associated with our efforts by sending a representative to sit at the Council table so as to be in a position to express an opinion as to how, either in view of the present situation or of its future development, effect can best be given to the provisions of the Pact. By this means also the opportunity will be afforded him of following our deliberations on the problem as a whole.

I am sure that any action that might be taken under the Pact could not but strengthen the efforts which are now being made by the Council in accordance with the obligations imposed upon it by the Covenant of the League of Nations to effect the peaceful settlement of the problem under discussion.'

In consequence, I have the honor to address to the Government of the United States the invitation contained in the said proposal.

Please accept, Mr. Secretary of State, the assurance of my high consideration."

Text of my acceptance will follow.

GILBERT

793.94/2171 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA [October 16, 1931.]

[Received October 16—12:15 p. m.]

207. Consulate's 205, October 16, 2 p. m. The following is the text of my acceptance:

"I have the honor to acknowledge the receipt of your communication addressed to the Secretary of State of the United States of America, under date of October 16th, in which you cite a proposal adopted by the Council of the League of Nations. You extend an invitation, in accordance with that proposal, to the Government of the United States to send a representative to sit at the Council table, so that he may be in a position to consider with the Council the relationship between the provisions of the Pact of Paris and the present unfortunate situation in Manchuria, and at the same time to follow the deliberations of the Council with regard to other aspects of the problem with which it is now confronted.

I am directed by the Secretary of State to accept on behalf of the Government of the United States this invitation to send a representative, and to inform you that he has designated me to act in that capacity.

I beg Your Excellency to accept the assurance of my highest consideration."

GILBERT

793.94/2210a : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

WASHINGTON, October 16, 1931—1 p. m.

94. Since the receipt today of the invitation from the Council for you to attend its meetings I think it well to repeat, for the purpose of absolute clarity, your instructions, which are as follows:

You are authorized to participate in the discussions of the Council when they relate to the possible application of the Kellogg-Briand Pact, to which treaty the United States is a party. You are expected to report the result of such discussions to the Department for its determination as to possible action. If you are present at the discussion of any other aspect of the Chinese-Japanese dispute, it must be only as an observer and auditor.

STIMSON

793.94/2180½

Memorandum of Trans-Atlantic Telephone Conversation ⁶³

[WASHINGTON,] October 16, 1931.

EVERETT:⁶⁴ This is Mr. Everett, Mr. Secretary.

SECRETARY: Yes, Mr. Everett.

EVERETT: Mr. Gilbert is here now—Just a moment.

SECRETARY: I tried to get you before you went into the meeting because I was a little worried.

GILBERT: It was just starting and I could do nothing but go in.

SECRETARY: My reason was I was a little worried by your statement in your cable—that you had changed your introductory statement.⁶⁵ I am troubled about that. What did you change?

GILBERT: I can read it. I am talking at the League of Nations Secretariat. I would like to tell you that—I am talking from a little outside office—the meeting has just concluded this moment. I am

⁶³ Between Mr. Stimson in Washington and Mr. Gilbert in Geneva, October 16, 1931, 1 p. m.

⁶⁴ Curtis T. Everett, Consul at Geneva.

⁶⁵ See telegram No. 204, October 16, 1 p. m., from the Consul at Geneva, p. 201.

getting my speech out of an envelope that is here—I will have it in a moment.

SECRETARY: I want to express the hope that you did not leave out any part that I gave you.

GILBERT: You sent me a slight change in my instructions. I will read you what I have said.

[Here follows text as quoted in telegram No. 208, October 16, 5 p. m., printed on page 209.]

GILBERT: All the way through I stated and then reiterated that we undertook nothing under the Covenant of the League of Nations.

SECRETARY: That's all right—you have relieved my anxiety—I was not sure.

GILBERT: Your message came somewhat garbled and I worked it out as best I could—in line with certain things I knew Briand was going to say.

SECRETARY: I think you have done very well—much obliged to you for telephoning it to me. You will keep us posted just as much as you can every day and they will understand that we need to have that done. I take it that the League will help in accommodating you by giving time for you to report to us.

GILBERT: They will do their best. We will ask for meetings, you know.

SECRETARY: One thing more—the situation here in the press has been pretty tense and so to make your instructions so perfectly clear to the press, I have sent you today a new cable ²² giving you the same instructions but in a little clearer language, so do not give out your instructions until you get ours. We have given them out here. I don't think it is necessary for you to give them out at all.

GILBERT: I do not think it is—I have kept away from the Secretariat because it seemed more delicate—was the question of inviting the United States—was before the Council,—nor have I permitted any member of my staff to be there. In my opinion I felt it best not to sit in and listen to a debate of that character—kept away from the press for the same reason only saying we have not been invited.

SECRETARY: Very wise step to take.

GILBERT: Following what I had to say, all of their representatives with the exception of two Powers of Latin America, Guatemala and Panama, made polite statements. I have to analyze the statements to see exactly what they meant. In spirit they concurred with what I have said. Do you wish me to go any further here? I shall go over those statements by those representatives and cable you. Is that answer what you hoped to have happen or do you expect further developments here?

²² *Supra.*

SECRETARY: I expect further developments there. We have no plan to send you. I want you now to seek not to push yourself into the foreground. It would be well to keep modestly in the background.

GILBERT: I would like to get one or two things clear if I may. Of course there is the pact. Do you expect it to be invoked in Geneva?

SECRETARY: If it is invoked at all, it should be invoked only at the instance of the Powers who are assembled in Geneva.

GILBERT: I see. I don't know what they will do.

SECRETARY: I don't want them to pass it back to us.

GILBERT: They answered what I had to say and made no commitments even by suggestion.

SECRETARY: I do not want to have them send the initiative back here to Washington as to the invocation of the pact. Do you understand me?

GILBERT: I did not get it—I am sorry.

SECRETARY: If the Kellogg Pact is to be invoked, that must be done in Geneva and the communications to the other Kellogg Pact signatories must be sent from Geneva. Do you understand?

GILBERT: I understand there is some difficulty in their minds as I understand them and it is that of course it could not be done by an action of the Council.

SECRETARY: That is true.

GILBERT: And it would have to be done outside.

SECRETARY: It is much easier to hold such an outside meeting there in Geneva where they are all present than it would be in Washington.

GILBERT: I can't say whether they will do that or not.

SECRETARY: I want you to insist on it.

GILBERT: You wish me to insist on it?

SECRETARY: Yes.

GILBERT: I will.

SECRETARY: It must not be sent back here.

GILBERT: I don't know. They have not been at all responsive and quite evasive.

SECRETARY: Please listen here exactly and take these instructions. The situation which has been made by the Japanese objection makes it doubly important that the initiative should not be taken here.

GILBERT: I understand that perfectly.

SECRETARY: You must not under any circumstances allow them to get under way in sending it to us.

GILBERT: I know. I will not do that. My question is whether they will do it themselves or not. I see no indications of it.

SECRETARY: If they are not hearty enough or eager enough about the invocation of the pact to do it themselves, then it had better not be invoked at all.

GILBERT: I understand. If they are not hearty enough about the invocation of the pact it had better not be invoked at all.

SECRETARY: We do not ask to have it invoked.

GILBERT: Could you not talk with the representatives in Washington of the Powers?

SECRETARY: We do not want it invoked by the representatives of the Powers here.

GILBERT: Can you not talk with the British and French representatives and others of your desires in the premises?

SECRETARY: I will if necessary, but I want it done primarily by you.

GILBERT: Yes Sir, but it would very much reinforce it if you would say it. There has been no hearty concurrence. They made a great many in their speeches which I have not analyzed. They are very solicitous, but have made no suggestion of taking any definite action of invocation—not in the slightest.

SECRETARY: The incidents which took place yesterday in the objection of Japan to our coming in would be very disastrous. If we should take over the invocation of the pact here, Japan would believe that we have gone into it to do that very thing instead of on the invitation of the League. She would resent it and believe that we have something behind our actions and it would set back the cause of the settlement of this thing very much. The people at Geneva must understand that. Japan's action in objecting to our sitting with the League has very much changed the situation and it has made it necessary to proceed with the utmost delicacy so far as we are concerned.

GILBERT: I realize that.

SECRETARY: And the most we can do now is to keep in the background and not give any occasion for Japan to feel that we are seeking to guide the whole thing.

GILBERT: The Japanese called on me today and wished me to say that of course their objection had been based purely on juridical grounds; they were very sorry they had to take that position.

SECRETARY: You know that is nonsense.

GILBERT: He said their action was in no way directed against the United States and they would be very happy to have us there.

SECRETARY: That is eye-wash.

GILBERT: I know.

SECRETARY: You must not under any circumstances let the members of the Council send the question of the Kellogg Pact here for organization and invocation.

GILBERT: Yes I understand.

SECRETARY: I am sure Mr. Briand will see that.

GILBERT: But if you take it up in Washington with the representatives there and reinforce it as soon as possible it would make a very great difference.

SECRETARY: You mean it would make a bad difference?

GILBERT: No. Could you not do it confidentially with the British and French?

SECRETARY: Get that out of your head. We won't do it at all. It would be the worst thing in the world.

GILBERT: I thought perhaps they would do it for you.

SECRETARY: No. That would put the name of Washington to it. It must be done in Geneva.

GILBERT: I thought that the British Ambassador would protect your confidence in that.

SECRETARY: No, he cannot do it here. You absolutely must stand unyielding and absolutely staunch on that question. Rather than do that, we would give up the question of invoking the pact.

GILBERT: I will do the best I can here.

SECRETARY: You had better talk to Mr. Briand at once about that and you had better talk to the British Ambassador and tell them of this talk with me; that if any such attempt as that was made, we would feel that it was better to give up the invocation of the pact altogether. It would destroy the whole purpose and would produce an issue with Japan which would make difficult the whole settlement.

GILBERT: I understand perfectly. I shall discuss that with Briand and Lord Reading. And of course Madariaga is very anxious to have that happen here. Madariaga, the Spanish Ambassador, is the only one who has expressed to me the anxiety of the Powers here to take that action. The others have all been evasive.

SECRETARY: There was no reason for coming into this Geneva meeting at all except to give them a chance to consult and carry on there and if they send it back here, there is no reason for you to be in the conference.

GILBERT: I understand.

SECRETARY: You have got to stand absolutely firm on that and say that you have been instructed personally by me.

GILBERT: I will Sir. I will do that and I will do it at once. Anything further? I will analyze the statements to take a point of departure for the conversations and will then proceed at once.

793.94/2107 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 16, 1931—2 p. m.

95. Your 199, October 14, 3 p. m. In confidence you may say to Drummond that the Department approves Briand's idea in principle but considers that without the consent of the Chinese and Japanese Governments caution should be used in applying it.

On October 10 the Chinese Chargé left with the Department a copy of a telegram, dated October 9, from the Chinese Foreign Office^{66a} giving the text of a "second note" to be delivered under instruction by the Chinese Minister in Japan to the Tokyo Foreign Office, in which the Japanese Government was requested by the Chinese Government to indicate the localities to be evacuated "over this week", it being stated that the League Council and this Department were being given copies of the note. The Chinese Chargé was instructed to request the Department to instruct the American Legation at Peiping to authorize "military or civilian representatives to accompany each unit proceeding to occupy the evacuated territories". The Department by way of reply handed the Chargé an informal memorandum which stated that "note has been made of and consideration is being given to the Chinese Government's request thus conveyed". As yet the Department has not taken any further action respecting this matter.

STIMSON

793.94/2119 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, October 16, 1931—4 p. m.

93. For the Minister: Your October 15, 10 a. m., from Nanking.

It is believed that this Government's attitude on this matter as a whole has been indicated adequately. To answer a question which refers to an unfolding and constantly changing situation and which is based upon a hypothetical future condition that may or may not eventuate, is difficult, if not impossible. This Government's objective, first of all, is to prevent the developing of a situation which would make it impossible to invoke any hitherto devised instruments for settlement by peaceful means of international disputes. In this controversy the Department has not taken sides in the case of the disputants. In determining its attitude and action, the Department does not intend that either party should force it into the role of policeman or prosecutor. The Department will exercise its best judgment in taking whatever steps it feels are best calculated at any moment in view of the situation to meet the momentary needs in relation to the above-mentioned objective. The Department's thought regarding the Kellogg Pact and the Nine-Power Treaty is indicated in its communication to the League of Nations Council; see the second paragraph of the text transmitted in my 88, October 13, 11 a. m., to the Consul General at Nanking for the Minister. In the same communication

^{66a} *Ante*, p. 149.

is indicated the Department's thought regarding the course of action which at the present stage it should pursue.

To your questioners you should say that this Government feels that the Chinese and Japanese Governments for the present should (1) continue taking every precaution possible against activities or incidents likely to aggravate the situation, and (2) endeavor, with the League Council's aid and in conformity with advice offered by this Government, to reach an understanding which will make settlement of their differences possible by direct negotiation. Both of these points should be stressed by you.

STIMSON

793.94/2173 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 16, 1931—5 p. m.

[Received October 16—1:55 p. m.]

208. Consulate's 204, October 16, 1 p. m. Following is text of my opening statement.

"In this moment of deep international concern, I thank you for your invitation to sit in your deliberations and to participate in your discussions insofar as the Pact of Paris, to which my country is a party, is concerned.

The Government of the United States of America has been following with the closest attention the proceedings before the Council for the settlement of the dispute at present unhappily existing between China and Japan. My Government does not seek to intrude with respect to such measures as you may propose under the Covenant of the League of Nations; and is not in a position to participate with the members of the Council in the formulation of any action envisaged under that instrument, for the composing of differences existing between two of its members. It has already conveyed to you its sympathetic appreciation of your efforts, and its wholehearted accord with the objective you have in view; and it has expressed the hope that the tried machinery of the League may in this case, as on previous occasions, be successful in bringing this dispute to a conclusion satisfactory to both parties. Moreover, acting independently and through diplomatic channels my Government has already signified its moral support of your efforts in this capacity to bring about a peaceful solution of the unfortunate controversy in Manchuria.

In your deliberations as to the application of the machinery of the Covenant of the League of Nations, I repeat, we can of course take no part. But the Pact of Paris, bearing as it does the signature of the President of this meeting together with that of our former Secretary of State as joint proponents, represents to this extent in America an effective means of marshaling the public opinion of the world behind the use of pacific means only in the solution of controversies between nations. We feel not only that this public opinion is a most

potent force in the domestic affairs of every nation, but that it is of constantly growing importance and influence in the mutual relations of the members of the family of nations.

The timely exercise of the power of such opinion may be effective to prevent a breach of international peace of world-wide consequences. We assume that this may be the reason why the consideration of the relationship between the provisions of the Pact of Paris and the present situation has been brought forward in this body; and the purpose which has moved my Government to accept your invitation is that thus we may most enthusiastically and effectively take common counsel with you on this subject."

GILBERT

793.94/2170 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 16, 1931—6 p. m.
[Received October 16—9:45 a. m.⁶⁷]

780. Following just received from Hanson [and] Salisbury at Taonan, dated October 12, 4 p. m., evidently delayed transmission.

"1. Arrived at Taonanfu 8 a. m. today.

2. According to Commander Chang Hai-peng, the 23 Japanese residents of Taonanfu departed on September 20; a Japanese airplane dropped 2 harmless bombs on the 24th; 600 Japanese troops arrived on the morning of 25th and returned next day. The 7,000 Chinese troops near Taonan had withdrawn on the 24th. The Japanese troops behaved extremely well while here. The Commander of the Japanese troops, Lieutenant Colonel Ueda, informed General Chang that the Japanese soldiers had come to protect the Japanese residents, to search for the murderers [of] Captain Nakamura and to protect the Ssu-ping-kai-Taonanfu Railway, in which the Japanese were financially interested.

3. A Japanese employee South Manchuria Railway here informed us that the Chinese invited the Japanese troops to come to protect the city from the troops which had fled and who might become brigands. This the Chinese officials deny. Considering the dislike of the Chinese here for the Japanese, it appears to us that the Chinese did not invite the Japanese troops to come. This Japanese also informed us that five Japanese had returned before the Japanese troops came. We could not ascertain why they were withdrawn.

4. General Chang stated that on October 15th he would assume office as North Liao Ninghai Mongolian Border Administrator to which he has been appointed by Chang Hsueh-liang, but which he claims the Chinese and Mongols of this section have elected him. He denied that, although he was in control of independent territory, he had made himself independent at the request of the Japanese."

Repeated to Tokyo.

For the Minister:
T. NGERT

⁶⁷ Telegram in two sections.

793.94/2172 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 16, 1931—6 p. m.
[Received October 16—1:25 p. m.]

209. Consulate's 208, October 16, 6 [5] p. m. Council met at 6 p. m. and I delivered statement. I understand that you are releasing in Washington.

GILBERT

793.94/2210

Memorandum by the Secretary of State of a Conversation With the French Ambassador (Clandel), October 16, 1931, 4 p. m.

[WASHINGTON,] October 16, 1931.

I called for the French Ambassador to come to my office. When he came I told him that I had an important message for him. I told him that the Council of the League of Nations had invited us to have a participant at the discussion of the question of the Kellogg Pact in Geneva; that we had accepted and Mr. Gilbert had taken his place. I told the Ambassador that I had talked with Mr. Gilbert on the telephone⁶⁸ and had learned from him that it had been suggested there that the duty of organizing the invocation of the Kellogg Pact should be sent back here from Geneva to be done by us in Washington. I said that that was quite impossible; it would be better not to invoke the Kellogg Pact than to do it in that way. I told him that under any circumstances it was much better to have the work of communicating with the various signatories of the Kellogg Pact done from Geneva by the group of nations represented there than from Washington under the leadership of one nation, the United States. But I said that since the occurrences of yesterday, when Japan had protested against the invitation to us, it had become doubly impossible, and that we could not do it without inflaming Japan and without setting back the ultimate solution of this question. He said he understood the situation perfectly and agreed with me. He said that what was needed was tact; that Oriental nations liked to settle their problems by diplomacy and not by judicial proceedings, and that what was needed was time and a chance to cool down. I said I agreed perfectly with him and I told him how I had already prevented in the beginning of this matter the sending of a military mission by the League to Manchuria which would have inflamed Japan and set back the whole thing. He again expressed his entire agreement with what I had done.

⁶⁸ See memorandum of trans-Atlantic telephone conversation, p. 203.

I said that now I wanted him to communicate to M. Briand at once my views and to say that we could not take up the matter here; that it was better not to invoke the Pact than to have it done from Washington. I said that in Geneva they were all present and could discuss together, and the matter could be handled by united cooperation and the whole body of nations would be arrayed in favor of peace without any personal affront to either Japan or China. I said it was of great advantage too that it was under the leadership of M. Briand. He left, saying that he would send a telegram to Briand at once and send it to Geneva instead of Paris.

H[ENRY] L. S[TIMSON]

793.94/2182: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 16, 1931—10 p. m.

[Received October 17—1:14 a. m.]

210. Discussion of the proposal to invite the United States to participate in the deliberations of the Council touching the application of the Pact of Paris was concluded at a public meeting this morning following which the invitation was extended. It is understood that the debate today was a formal repetition of that which took place in yesterday evening's private meeting (Consulate's 202, October 15, 9 p. m.).

Briand opened the discussion by reading a letter addressed by Yoshizawa, following an earlier conversation between them, basing objection to the invitation on juridical grounds on the principle that the proposal was incompatible with the Covenant. The letter questioned: whether within the meaning of article 4 of the Covenant the United States could be invited by a state particularly interested in matters concerning article 11; (2) whether the status of an invited representative of a nonmember state could be that of observer with right of discussion or of fully qualified member of the Council; (3) whether a precedent would thereby be established in all questions relating to article 11; (4) the constitutionality of deciding upon an invitation without a unanimous vote of the Council. In his written reply which he also read Briand pointed out that it was not a question of inviting the United States to be a Council member, that an invitation was fully in accord with the previous resolution of joint cooperation and that as the invitation was clearly a question of procedure, a majority vote sufficed. With regard to precedent, he saw no objection to the Council taking similar action in the future.

It has been learned that in an effort to make a concession to Japanese objections, the appointment of a committee of jurists to examine the legal aspects of the question was considered yesterday evening. The

Japanese refusing, however, to be bound by their decision, the motion was defeated against the affirmative votes of Japan and Germany; the Japanese delegate explained that his inability to accept the findings of such a committee arose from a conviction that, the Council being sovereign, the opinion of its members cannot be anticipated by any other committee or body not excluding the Permanent Court of International Justice. He affirmed that he objected purely on a question of principle and that in the fundamental aspects of the matter Japan appreciated "the friendly and understanding attitude of the United States in the present circumstances." Lord Reading vigorously sustained the thesis that the invitation be voted upon as a question of procedure as provided in article 5 claiming that if the contrary were upheld there could never be raised any question of procedure under article 11 which is no different from any other article in the Covenant. He urged upon the Japanese representative to content him[self?] with discharging his judicial scruples in the form of the protest he had already made and refrain from delaying further consideration of a settlement which Japan declared it earnestly desired.

In a final statement Yoshizawa regretted that inasmuch as his Government regarded the question a matter of substance and not of procedure his attitude remained unchanged. The debate on this issue progressed no further beyond this point and the decision of yesterday evening's meeting was considered sustained without a regular vote.

Among subsequent observations made by the other members of the Council, that of the representative of Poland is of interest, it being to the effect that his Government regarded the major constitutional question as to who is to decide whether a question before the Council is one of procedure or one of substance or how that question is to be decided was not settled by yesterday's vote but was reserved; in this particular instance he affirmed that Poland considered it temporarily set aside on the ground that the initial decision to exchange information with the United States had been carried by one unanimous vote. The representatives of Yugoslavia and Norway associated themselves with this view.

GILBERT

793.94/2210b : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 16, 1931—11 p. m.

97. Reference my telephone conversation this morning with you.⁶⁹ I wish to enforce what I said then. You are not to participate in any discussions except with regard to possible invocation of the Pact of

⁶⁹ See memorandum of trans-Atlantic telephone conversation, p. 203.

Paris as a means to mobilize world opinion against war. The Far Eastern situation changes from day to day, and if the League Council believes it to be unwise to appeal to the Kellogg Pact, you are not to urge it under any circumstances. If, on the other hand, the Council should decide to invoke the Pact, it should be made quite clear by you that the initiative must be theirs. I well understand the difficulty of the Council, as such, invoking the Pact, but I do not see any reason why the initiative toward effecting its invocation should not be taken by the individual members of the Council acting as representatives of governments which have signed the Pact. Under existing circumstances I am not able to initiate it here. The whole purpose in authorizing you to sit with the League Council was that, since Geneva should take the initiative in connection with discussing the question of the Pact's invocation, I was willing through your participation to have you express this Government's cooperation.

If I were to summon the representatives here of the various signatory Governments to make the suggestion, this might lead to the crossing of wires. If the Council should ask this Government itself to invoke the Pact or to propose its invocation, this would be most unfortunate, and you should make every effort to prevent this. No doubt Japan is anxious not to have the Pact invoked, and presumably it was to prevent it if possible that the Japanese raised objection to an American sitting at the Council meeting. Therefore, if this Government is put in the position of itself urging other nations to invoke the Kellogg Pact, Japan would assume that this Government had failed in neutrality, while a peaceful solution of the dispute might actually be delayed. This situation between Japan and the United States has been made far more serious by the events of the last 2 days. Not only did Japan object to American representation on the Council, but the Tokyo Foreign Office spokesman yesterday made other statements tending, unfortunately, to inflame public opinion in Japan against the United States.⁷⁰ As a result of all this, the appearance of the American Government as urging the Kellogg Pact's invocation would be resented instantly and deeply in Japan. The very fact of such an appeal being made here, with a Washington date line attached, might well cause such irritation in Japan that the hoped-for effect from an appeal based upon the Pact to the disputants might not only be nullified but might result even in the postponement of a solution of the issue. Accordingly, you will understand how important it is for you to remain in the background lest any possible suspicion should arise that the United States is taking the initiative in or is in any way pressing for, the Pact's invocation.

STIMSON

⁷⁰ See memorandum by the Secretary of State of conversation with the Japanese Ambassador, October 18, *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 26.

793.94/2183 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 16, 1931—11 p. m.

[Received October 17—12:22 a. m.]

211. This evening's session of the Council convened at 6 p. m. Briand presiding read my letter of acceptance. He then requested me to take my seat at the Council table. When I was seated he expressed the satisfaction which he and his colleagues felt in welcoming me among them "on the terms defined as between his Government and the Council of the League." He continued :

"We are happy to see a public demonstration of the spirit of good understanding and loyal cooperation which has throughout conjoined the efforts of the United States Republic and the League of Nations since the inception of the present difficulties which are submitted to a procedure for pacific settlement.

It is the natural and practical outcome of that close associated solidarity which has existed harmoniously among them for a month past to the satisfaction of the two parties concerned. And is this not the first link which is being established between the United States and the League of Nations since the Pact of Paris placed on record our common determination to seek the solution of disputes by no other than pacific means?

The nations of the world that watch the progress of every world peace will not without emotion see the ranks of those who are anxious to prevent war being thus closed; they therefore consider that your presence here, Sir, is significant and symbolic of that public union between the greatest moral forces which are enlisted in this world in the cause of peace. They will welcome as a very great event, worthy in their eyes of justifying the greatest hopes, the fact that a noble nation—like the American nation—which is actuated by ideals of justice and peace, is bringing to the League of Nations the support of its great authority.

On behalf of all my colleagues I have the honor to welcome you at the same Council table."

I replied :

"I wish to thank you, Mr. President, for the kind words you have spoken in your own name and in the name of the Council.

May I be permitted first to convey to you, Mr. President, the sentiments of deep admiration and respect which the Government and the people of the United States entertain towards you as the untiring artisan of peace and the co-author of the Pact of Paris. It is indeed a happy augury, Sir, that you should be presiding over the deliberations of this body at this time, and I wish to assure you of our deep gratification at being once more associated with you in the cause of peace."

I then continued with my prepared statement (see Consulate's 208, October 16, 5 p. m.).

Lord Reading expressed himself as concurring in the remarks made by Briand and continued :

"It must be a satisfaction to all of us who are members of the League of Nations to find ourselves associated on this very serious occasion with the representative of the United States, whose interest is in the Pact of Paris. It further shows most clearly that the objects of the Pact are the objects also pursued by the League of Nations, that is, the pacification of all controversies, instead of the arbitrament of war, is the main object not only of the Pact of Paris but also of the League."

Grandi expressed his satisfaction at the presence of an American representative. The most important portion of his speech was as follows:

"The importance of this event will be obvious to everybody and I see in this a valuable earnest of the continuation and improvement of the cooperation which we desired from the outset and obtained from the outset and which I feel sure will undoubtedly facilitate the accomplishment of the important, difficult, and delicate task which the Council has to perform.

I also see in the presence of the American representative a cause of great rejoicing to us because it shows once again that the Government and the great people of the United States are always ready to work with us whenever the efforts of all nations have to be associated in order to solve difficulties and override obstacles which have a bearing on the interests of all her [*sic*] countries and of the peace of the world.

The representative of the American Government was invited to take his seat at our table because it was recognized that the question before the Council has a reference to the observance of the obligations arising not only out of the Covenant of the League of Nations but also out of the Pact of Paris, and because it was felt expedient that a representative of America should have an opportunity of expressing the opinion of his Government as to the manner in which, under present circumstances or in connection with future developments, effect might best be given to the provisions of the Pact of Paris. I am convinced that in taking that course the Council has acted with great wisdom. Not only as a signatory of the Pact of Paris, but as one of the promoters of that Pact, the Government of the United States is interested to a peculiar degree in the pacific settlement of the dispute now before us, in the same way as we are interested in it as signatories of the Covenant.

Since the 1930 Assembly the League of Nations has been seeking means of bringing into harmony the Covenant of the League and the Pact of Paris, and this bringing into harmony of the two instruments has been greatly desired in view of the fact that the two instruments have the same purpose or object; they are mutually complementary and consequently they are called on to operate on occasion in the same direction.

The presence here of the representative of the American Government proves to us that a harmony does in fact exist between the two

instruments and therefore their respective signatories should and must work together."

Von Mutius, Germany, expressed his satisfaction "at this demonstration of cooperation at the time when the question of the Pact has been brought up."

De Madariaga made a speech of welcome in part as follows:

"The connection between our lines of work is obvious; if the juridical channels differ, the flow of good will that runs along them is evidently the same. There is no question about that; if there were the slightest difference in spirit between the Paris Pact and the Covenant, Mr. Briand would not have produced with Mr. Kellogg the Paris Pact."

Matos, Guatemala, and Lester, Irish Free State, made statements expressing their satisfaction at the presence of an American representative.

Sokal, Poland, said in part as follows:

"In joining others, on behalf of my Government, in what has been said concerning the cooperation of the United States of America with the League, I should like to add that I feel sure that all those members of the League who are at the same time signatories of the Briand-Kellogg Pact regard it as absolutely essential to secure the closest possible cooperation of the United States of America, who are the promoters of that Pact. That Pact will shortly have to be brought into harmony with the Covenant of the League and I think that work will be greatly facilitated by the effective collaboration of the United States of America with the League of Nations."

Garay, Panama, struck a different note from the other speakers, after referring to the ties which bind the United States and Panama and a formal word of welcome he concluded:

"I venture to express the hope that the cooperation of the United States of America may be soon transformed into a valuable association on a footing of equality with the other states here represented—such an association as the world has been awaiting and desiring for many a year."

Fotitch, Yugoslavia; Sze, China; and Barreto, Peru, followed with brief statements associating themselves with the speakers who had preceded.

Thus all the members present except the representatives of Japan and Norway, expressed their satisfaction at the presence of an American representative. It is generally understood that Yoshizawa was instructed not to speak. It is reported that the representative of Norway abstained in order not to embarrass the representative of Japan by putting him in the position of being the only member of the Council to keep silence.

The President then called on me and I replied briefly expressing appreciation for the welcome which I had received from the Council. The Council then adjourned.

GILBERT

793.94/2185 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 17, 1931—7 a. m.

[Received 11:16 a. m.]

783. Legation's 774, October 15, 9 a. m. In reply to inquiry from Hanson [and] Salisbury I have informed them that the Legation assumed it would not be necessary for them to proceed to Chinchow for the present. Does the Department wish them to make an independent investigation of the bombing?⁷¹

For the Minister :

ENGERT

793.94/2186 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, October 17, 1931—9 a. m.

[Received 9:50 a. m.]

(1) The Secretary of the Japanese Legation in China and Consul General at Nanking last evening told me of his Government's efforts to dissuade the United States from sending an observer to the League Council meeting. He said Japan would negotiate with China only, without observers or the interference of a third party. If China would but start negotiations, he intimated, it would find Japan asked little, merely the protection of Japanese lives, property, and rights in Manchuria by China.

(2) I was told later, after dinner with T. V. Soong last night, that his Government would welcome any suggestions which might be offered by the United States as to a way out; that in negotiations with Japan the Chinese felt helpless without the presence of a neutral observer; and that what Japan wanted was to put into effect the treaties of 1915.⁷² Soong did not believe Japan entertained political ambitions in Manchuria, but did want railways and economic control. He expressed the belief that Japan even now, while occupying terri-

⁷¹ The Department answered "no" in its telegram No. 387, October 18, 1931, 11 a. m.

⁷² For treaties and notes signed at Peking, May 25, 1915, see *Foreign Relations*, 1915, pp. 171 ff.

tory, was feverishly working to complete the much-disputed line connecting Kirin with Hueining (Kwanei, Korea). Soong insisted that his country could not negotiate with Japan so long as the latter occupied Chinese cities and territory; and that no government in China could survive the popular agitation which would assuredly follow the beginning of negotiations under these circumstances. He said it was feared that the Japanese were just waiting with the intention of creating an incident at Shanhaikwan which would serve as a pretext for them to land more men there, thus cutting off the rest of the Chinese forces in Manchuria. This, he said, would mean war, since the Chinese troops would be obliged to fight their way out.

(3) To my query regarding the guarantees which might be arranged to protect Japanese during the evacuation period, Soong replied that his Government would be willing to accept either neutral observers or a vanguard to be composed of an international force; a very small force would suffice, he thought. He wondered what the United States would think of a suggestion for China to yield to Japan control over railways, built or being built, in Manchuria, plus a dominant economic position, on condition that all Japanese troops now in Manchuria be removed.

(4) Referring to the Cantonese situation, Soong informed me there were very bright prospects of a peaceful settlement. He said the Cantonese delegation, headed by Wang Ching-wei and including C. C. Wu and Eugene Chen, would shortly arrive in Shanghai to hold a preliminary meeting. Hu Han-min has proceeded there to take part. Chen Ming-shu, said Soong, will take over the post here of garrison commander, and this was a political gesture meant to restore Cantonese confidence. In the beginning, Soong admitted, the Cantonese had been inclined to make use of the Manchurian situation in order to bring Nanking to terms, but this had all stopped when the students intervened; now the leaders at Canton were only too happy to regain favor on any terms.

JOHNSON

793.94/2225

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] October 17, 1931.

The Japanese Ambassador and Madame Debuchi lunched with us today, the first time, he said, that they had been anywhere since the trouble began. After luncheon the Ambassador talked with me at some length about the situation and I took the opportunity to make very clear to him that we felt rather keenly about the announcement made by the Foreign Office spokesman that two notes had been received

from this Government which had not been given out for fear of inflaming public opinion. I told him that this country had taken throughout a neutral attitude in the whole affair and that we felt it exceedingly unfortunate that public opinion in Japan should be stirred up against this country.

The Ambassador told me that he had had word that all bombing planes had been withdrawn from Manchuria and that he had every assurance that there would be no further unfortunate expeditions like the bombing of Chinchow. I further took occasion to point out to the Ambassador that in all we had done our purpose had been to prevent a state of war in the Far East. I said to him that it was clear that this Government, like every other government, had a perfect right to work to the limit to prevent war in any part of the world. In this case it happened to be Manchuria, but that our attitude would be just the same had it been on some other part of the globe. He said that there was a certain feeling in Japan that the reason for our endeavors was that the trouble had arisen in Manchuria. I told him that I was conscious of this feeling, which was based on nothing whatever. I told him that the impression that we wanted the Japanese out of Manchuria altogether was entirely false; that we had not considered a final settlement, which we felt must be reached by the Chinese and Japanese themselves, but that in the reaching of such a settlement we certainly should not attempt to bring out or even to suggest the complete withdrawal from Manchuria on the part of Japan, since it was clear that Japanese troops were there under treaty stipulation. The Ambassador said that he would make this clear to Baron Shidehara.

W. R. C[ASTLE,] JR.

793.94/2210c : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 17, 1931—2 p. m.

99. (1) In my telephone conversation yesterday with you I expressed my views on the necessity of not allowing the organization of any movement under the Kellogg Pact to be referred back to Washington. You should be absolutely staunch against this, for it would array this country in the most forcible manner vis-à-vis Japan and would delay peace in Manchuria. Not to invoke the Pact at all would be better than to invoke it in this way. The reasons for this were given to you in my 97, October 16, 11 p. m., in confirmation of our telephone conversations. I have made known my views on this point to Briand and Reading through their Embassies.

(2) Now I wish you to understand my general view of the Manchurian situation. I believe that the principal and most efficacious step to preserve peace already has been taken through the step yesterday in formally alining the United States at Geneva with the other nations in a conference to preserve peace. If the conference agrees, this step may well be supplemented by organizing at Geneva a formal protest of the Kellogg Pact signatories. But already there has been given the firm impression of solid alinement of public opinion. For the purpose of clinching this seeming solidarity I am inclined to think it well may be desirable to proceed with such a general protest. However, my mind is entirely open on this subject, and I should be quite ready to acquiesce in not going further if it should seem in the discussions that there is a danger of such further steps causing the situation between Japan and China to be inflamed so as to delay peace.

(3) My firm conviction is that the ultimate solution of this problem must be left to the parties themselves in direct negotiations, whether accompanied by neutral observers or not. The neutral states should undertake no intrusion into the terms of such a settlement. Their sole interest is to insist upon the settlement being by pacific means and to prevent war. Japan and China should, therefore, be given every inducement to settle the present dispute in this way. While in the existing tense situation there is danger of further minor clashes, I believe neither country wishes to have a war, especially in view of the aroused opinion of the world at present; and somehow the requisite time must be found for them to overcome the obstacles which prevent the starting of such negotiations.

(4) As the situation now stands, in the resolution of the states of the world to stand together for peace a great step has been taken to demonstrate their solidarity even when confronted by a major crisis, and, similarly, a great vindication has been made of the present peace machinery of the world. The object should be the holding of this present situation and the insuring of a settlement without further break and by negotiation.

(5) When it seems desirable you may communicate the above as my views to Briand, Reading, and Grandi.

STIMSON

793.94/2210e: Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 17, 1931—4 p. m.

386. Inform Hanson and Salisbury that Department desires that they conclude their survey within a few days and as soon as convenient return to their respective posts. They should arrange for

Myers to have a record as complete as possible of what they have reported, and Myers should continue to collect such data and should make it a point to send us whenever possible the most accurate statements of fact which he is able to acquire with regard to any new developments in the military and political situations.

Inform Salisbury that he should take material for full report to Tokyo Embassy.

STIMSON

793.94/2204: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 17, 1931—8 p. m.
[Received October 18—2:40 a. m.⁷³]

785. Following from Hanson [and] Salisbury, October 15, 10 p. m.:

"1. Arrived Newchwang (Yingkow) yesterday at 5:30 p. m.

2. Japanese Consul Arakawa and Lieutenant Colonel Iwata, Commander of troops at Tashihchao and Newchwang, informed us that three companies of Japanese troops came to Newchwang on September 19th at 5:30 a. m.; disarmed unresisting 800 Chinese police and 300 of 500 regular Chinese troops stationed in the city (the remaining 200, having been out of the city pursuing brigands, did not return); took over Chinese telegraph and telephone offices, Peiping-Mukden Railway station across the Liao River from Newchwang and cut this railway line at a point 1,200 meters beyond the station. The 300 disarmed troops were paid 2 yen a person and [sent?] away. The colonel stated that troops did not come to protect the 2,500 Japanese residents, as there had been no anti-Japanese feeling among the Chinese, but to dissipate the military forces of Chang Hsueh-liang, who had been acting in an outrageous manner against the Japanese, and to break his power in Manchuria. He added that the Japanese had attacked the Chinese soldiers at Changchun for the same reason. He also said that this was not war but simply disarming and sending away the enemy.

3. This morning with the Colonel we visited the Peiping-Mukden Railway station which was deserted with the exception of the guard of 12 Japanese soldiers. A Japanese flag flew over this station and the Japanese had built trenches across the tracks to defend the station.

4. We next inspected with the Colonel Chinese barracks in the city which were occupied by 24 Japanese soldiers with two 4-inch pieces and which contained about 500 rifles taken from Chinese soldiers, 3 trench mortars, many boxes of ammunition and other military equipment. A Japanese flag was flying over these barracks which were in the native city.

5. After awhile, among others, we conversed with the British Consul Bristow, Chief of Police Pai and Magistrate Yang, all of whom confirmed the Japanese version of the capture of Newchwang; the British Consul stated that the entire city was controlled by the Japa-

⁷³ Telegram in six sections.

nese military, who issued orders to the Chinese officials and who prevented the latter from getting in touch with the Chinese officials outside of Newchwang. He added that, if the Japanese troops were withdrawn now, there would be extreme danger of brigand attacks.

6. Pai stated to us that as soon as the Japanese troops arrived he arranged with the Japanese commander to allow Chinese police to be rearmed and function under him, subject to Japanese orders. He added that all other Government institutions and banks were under Japanese military control. The Chinese wireless station had been dismantled by the Japanese.

7. Magistrate Yang informed us that 40 Japanese soldiers forced their way into his yamen on September 19th and occupied it for 22 days. During this time he was under house arrest in a small room and was permitted to go out only under armed guard. His statements were confirmed by the British Consul. He complained that the Japanese soldiers destroyed many of his records and stole the furniture and fixtures of the yamen, which appeared to have been looted just prior to our inspection of the premises. He was in a highly nervous state. He stated that the Japanese Consul and military [apparent omission] gave him no reason for his arrest or the occupancy of his official premises.

8. We found Newchwang and the Peiping and Mukden Railway terminal opposite under control of the Japanese military who supervise closely the work of the Chinese officials. If they really had desired solely to protect the Japanese residents, their troops could have arrived and stayed in the large Japanese concession. We believe that, if the Japanese troops had not been sent, neither the Japanese nor Korean residents would have been in danger. However, if the Japanese troops are now withdrawn without making adequate provision for raising and arming a Chinese defense force or allowing Chinese troops now stationed at Koupangtze to enter Newchwang, the city would be in danger of brigand attacks. Although the Japanese have withdrawn 200 soldiers they have shown no inclination to withdraw all their troops from Newchwang. Lieutenant Colonel Iwata, in reply to a direct question, stated that the troops would be withdrawn when ordered. This withdrawal of a portion of troops has no significance as the Chinese are so thoroughly cowed that the presence of a handful of Japanese soldiers is sufficient to exercise complete control over Newchwang and its Chinese population.

9. The thinking Chinese at Newchwang are strongly opposed to the presence there of Japanese troops, who, they urge, should settle at and with Mukden the dispute arising from the clash between Japanese and Chinese troops at that place, the dispute being of no concern to the Chinese at Newchwang.

10. Lieutenant Colonel Iwata informed us that on September 29th-30th, when Chinese ex-soldiers were planning an attack on the real Newchwang, some distance up the Liao River from Yingkou, an airplane was sent to that place and, dropping 2 or 3 bombs, frightened the Chinese ex-soldiers away and thus prevented harm to the village where 30 Japanese resided."

For the Minister:

ENGERT

793.94/2189 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 17, 1931—9 p. m.

[Received October 17—9 p. m.]

212. The following is taking place with respect to the invocation of the Pact of Paris:

1. The Foreign Ministers of France, Great Britain and Italy are telegraphing at 10 o'clock tonight from Geneva to Tokyo and Peiping (or Nanking) informing the Japanese and Chinese Governments respectively through diplomatic channels that the Pact is formally invoked respecting the situation in Manchuria.

2. Germany and Spain are taking the same action from Berlin and Madrid respectively.

3. The text of these identic telegrams reads as follows:

"The (blank) Government has followed with anxiety the development of events in Manchuria, which, since September 18 have created a disquieting situation between China and Japan.

This situation has already been laid before the Council of the League of Nations which is making active efforts to arrive at a settlement and in these efforts my Government's representative is associate[d].

My Government further considers it to be its duty to call the attention of the Chinese (or Japanese) Government, a co-signatory with itself, of the Pact for the Renunciation of War of August 27, 1928 to the provisions of that Pact and especially to article 2 by which (here follows article 2).

Public opinion throughout the world expects the two Governments to adhere to the undertakings thus assumed. My Government is confident that this hope will not be disappointed and that the two Governments concerned, bearing in mind the scope of these solemn undertakings and of the obligations thereby imposed upon them towards the other signatories of the Pact, will be careful to refrain from taking any step that might endanger the success of the efforts already in progress to secure the settlement by peaceful means of the conflict that has arisen between them."

4. French Government will telegraph notifications of this action to all signatories of the Pact of Paris in the name of France, Great Britain, Italy, Germany and Spain.

5. A press communiqué is being issued from Geneva in the following terms:

"The members of the Council, with the exception of the two parties concerned, continued their examination of the Sino-Japanese conflict today, and discussed what proposals might be submitted to the two parties. Further, the members of the Council who are also signatories of the Pact of Paris decided that their Governments should call the attention of the Governments of Nanking and Tokyo to the

obligations which they have undertaken under article 2 of this Pact. This article reads as follows (here follows article 2).["]

GILBERT

793.94/2192 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 17, 1931—midnight.

[Received October 18—11:45 a. m.]

213. [Paraphrase.] The Council today held private meetings at 11:30 a. m. and 6 p. m. Further action by the Council in the Japan-China situation in Manchuria was given consideration. The Chinese and Japanese representatives were not present at these meetings. I attended both meetings, of course not taking part.

At the end of the evening meeting a draft regarding the situation was drawn up and distributed for study to the Council Committee members as a basis for a program of possible action. This resolution is to be discussed tomorrow, Sunday, at 11 a. m., when the Council holds a private meeting.

The resolution reads as follows [End paraphrase.] :

"The Council, in pursuance of the resolution passed on the 30th September;

1. Having requested the parties to do all in their power to hasten the restoration of normal relations between them, assumes that neither party will resort to aggressive policy or action and that the two Governments will take every possible measure for the suppression of hostile agitation, and notes the assurances already given on this point;

2. Having noted the statement of the Japanese representative that the Japanese Government would continue as rapidly as possible the withdrawal of its troops into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured and the statement of the Chinese representative that his Government will assume the responsibility for the safety of the lives and property of Japanese nationals outside that zone, assumes that the pledge of the Chinese Government includes the extension of efficient protection to Japanese subjects residing in Manchuria;

3. Having recognized the importance of the Japanese statement that Japan has no territorial designs in Manchuria, notes that this statement is in accordance with the terms of the Nine-Power Treaty, the signatories of which are pledged 'to respect the sovereignty, the independence and the territorial and administrative integrity of China';

4. Considers that these engagements and the agreement of the Chinese and Japanese representatives to the interpretation placed upon them by the Council are of a nature to facilitate the restitution of normal relations between the two parties but that the establishment of such relations cannot be adequately secured until the decisions

taken by the Council in its resolution of the 30th of September are fully executed;

5. Calls upon the Japanese Government to begin immediately to proceed progressively with the withdrawal of its troops into the railway zone so that the total withdrawal can be effected within a maximum period of 3 weeks from the date of the present resolution;

6. Calls upon the Chinese Government to make such arrangements for taking over the territory thus evacuated as will insure the safety of the lives and property of Japanese nationals there, and further requests the Chinese Government to assist [*associate*] with the Chinese authorities designated for the above purpose representatives of other powers in order that such representatives may follow in [*the*] execution of the arrangements;

7. Recommends that direct negotiations shall at once be begun between representatives of the Chinese and Japanese Governments so as to insure that the details of the execution of all points relating to the evacuation and the taking over of the evacuated territory may proceed smoothly and without delay;

8. Recommends that direct negotiations should be begun between the two Governments not later than 7 days before the term fixed for the total evacuation—provided such evacuation has made good progress by that date—on any points of execution arising out of the engagements referred to in points 1, 2 and 3, but excluding those set out in 5 and 6, on any further question arising out of the occupation of the territory in question, and on the questions outstanding between the two Governments, among which the first matter to be examined should be arrangements between the Japanese and Chinese railway administrations with a view to a practical solution of existing difficulties arising out of the railway situation in Manchuria;

9. The Council, though always at the disposal of the two parties should they desire its good offices, calls their attention to the precedent governing the conversations which led to the settlement of questions relative to Shantung, in which the two Governments requested the assistance of two personalities belonging to neutral states; the Council would be willing, if invited, to nominate one or two persons for this purpose."

GILBERT

793.94/2198 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 18—10 a. m.

[Received October 18—4:40 a. m.]

787. Legation's 779, October 16, noon.⁷⁴ Captain Nimmer of Naval Attaché's Office returned to Harbin from Manchouli and Tsitsihar yesterday and reports as follows, October 17, 3 p. m.:

Big crowds at Tsitsihar station yesterday awaiting opportunity to leave for points south. People in panic lest Japanese planes, three of

which flew over that area on the afternoon of 15th, might bomb it and fear promiscuous firing from Tsitsihar garrison troops. Foreigners from Tsitsihar arrived at Harbin on same train as Captain Nimmer; Japanese and Koreans are leaving also. Officials at Angangki equally panic stricken.

General Chang of Taonan who has Japanese material and who was moving [on] Tsitsihar with 15,000 to 20,000 soldiers but is delayed by Tsitsihar troops who damaged Nonni River bridge, forcing Chang to halt indefinitely or to move 30 miles to another bridge.

Departure of Tsitsihar Japanese Consul ⁷⁵ and Japanese subjects has increased panic among Chinese officials for they interpret this as definite indication Chang will have support of Japanese bombing planes after he succeeds crossing the Nonni.

Captain Nimmer is of the opinion Chinese authorities doing all in their power to protect foreigners and especially Japanese, and rather than lose all to the Japanese or to their puppet Chinese generals, or to both, are actually prepared to turn this area into a Red reign of terror in order to enlist thereby foreign support.

He was given access to every place and official person and to put such questions as he pleased.

Captain Nimmer states that Hailar is peaceful on the surface but seething internally; troops unpaid for 5 months; general in command arrogant, unscrupulous and incompetent. Mr. Mamen, Norwegian subject, and his wife, an American, both residents Hailar and students, Mongolia, consider that situation there very tense. Captain Nimmer added that along the line of the Chinese Eastern Railway from Pogradichnaya to Manchouli above are the only affected areas they knew.

Telegraph and telephone communication with Tsitsihar city open but radio service discontinued because departing radio staff reported to have dismantled radio station when retreating Tsitsihar troops. I have sent urgent telegram this morning to Mr. Vos informing him Consulate General has reliable report situation at Tsitsihar dangerous and suggested that he, his wife, Miss MacCracken and Miss Huston, all American missionaries at Tsitsihar, should evacuate to Harbin soonest possible and adds that office informed their whereabouts and welfare. Mr. and Mrs. Mamen of Hailar, I am informed, are removing to Pokotu.

Japanese aeroplane flew over Harbin this morning.

For the Minister:
ENGERT

⁷⁵ In telegram No. 810, October 22, 11 a. m., the Legation reported that the Japanese Consul and staff had returned to Tsitsihar (793.94/2275).

793.94/2203 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, October 18, 1931—10 a. m.

[Received October 18—9 a. m.⁷⁸]

1. Following is message which is being sent in identical wording by myself, British and French Ministers:

2. "President invited me and my French and American [*British*] colleagues to meet him today privately on October 17th. Following is our joint report on interview.

(2) President opened the discussion by inquiring whether we had yet received replies from our Governments regarding despatch of troops to Shanhaikwan to watch acts of Japanese there. On our replying in the negative, he told us that he had just received telegraphic information from Chang Hsueh-liang that Chinese troops were being withdrawn westwards to avoid contact with Japanese but indicated that he still feared that Japanese intended to provoke an incident with a view to occupying the city and pass and thus cutting off Manchuria from the rest of China. He then referred to situation at Shanghai where according to his reports Japanese were similarly to provoke an incident. Japanese Consul had twice called on Mayor in connection with securing supplies for Japanese (which Mayor had agreed to arrange) and had on both occasions given a vague warning that trouble was to be expected in a few days. President begged that attention of our Governments might be specifically drawn to both Shanhaikwan and Shanghai during the next few days.

(3) Referring to general situation President developed the argument that it was essential to deal firmly with Japan in this crisis. It was due to the weak attitude of the Chinese especially in Manchuria that the crisis had arisen. China was now determined to see the thing through. He hoped that the League and America would equally realize the necessity of dealing firmly with the situation. Only thus could Japan be induced to see.

(4) His Excellency then referred to the difference in the psychology of the Chinese troops inside and outside the Wall. The latter were traditionally afraid of and cowed by the Japanese Army. The former had no such inferiority complex.

On the contrary they were spoiling for fight with Japan. He mentioned in illustration of this point the Tsinanfu incident of 1928 [in?] which he had to restrain his troops from continuing hostile attitude. If, therefore, the Japanese Government took any hostile action inside the Wall a clash was unavoidable. He wished us clearly to understand that this was in no sense meant as a threat but that in such circumstances hostilities would be inevitable.

(5) The President referred to the Nine-Power Pact and the incompatibility thereto of the 1915 agreements which had been wrested from China by force. Did we not think they should have been brought up for general discussion? We referred to a well-known attitude of Japan as formulated at the Washington Conference and on other

⁷⁸ Telegram in two sections.

occasions that she would not permit these agreements to be called in question, and we expressed the view that it would be a mistake to bring them into the picture at the present time when the League and America were concentrating on the immediate problem of preventing serious hostilities.

(6) In conclusion the President made the following observations which he asked might be regarded as an official declaration and communicated to our respective Governments. The Japanese Foreign Office might be to some extent susceptible to the public opinion of the world. This was not the case with the Japanese general staff. The latter had taken advantage of the preoccupation of the foreign powers with the Great War to extort from China the 1915 agreement. They were similarly now seeking to take advantage of the preoccupation of the foreign powers with the world-wide economic crisis to repeat this maneuver.

But the National Government and the China of 1931 were not the same as the Chinese Government and the China of 1915; nor was he, Chiang Kai-shek, the same as Yuan Shih-kai. Under no circumstance would China now yield to threats of force nor negotiate in any shape or form until the Japanese troops had been withdrawn and the *status quo ante* September 18 restored. His Excellency repeated this statement with the greatest earnestness and speaking with a vigor and intensity of purpose which convinced us of his sincerity requested that we would report his words to our respective governments."

3. Reference to despatch of troops by foreign governments. Such a request was made of the British, French and Italians. I was also approached but replied that we had no forces at Shanhaikwan, implying that we had none to send. I made inquiry at Peiping as to truth of report that Japanese had landed or intended to land troops. No reply has been received.

4. President expressed belief that Japanese were deliberately laying the ground to provoke an incident at Shanghai or at Shanhaikwan.

JOHNSON

793.94/2190 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 18, 1931—1 p. m.

[Received October 18—9:26 a. m.]

214. Consulate's 212, October 17, 9 p. m. The Foreign Minister of Norway who is sitting on the Council informed me this morning that he telegraphed last night from Geneva to Norwegian Minister at Tokyo and to Norwegian Consul General at Shanghai an invocation of the Pact of Paris identic with the text cited in the Consulate's telegram under reference.

GILBERT

793.94/2091a : Telegram

The Secretary of State to President Hoover, Aboard the "U. S. S. Arkansas," Hampton Roads

WASHINGTON, October 18, 1931.

Gilbert informs me from Geneva that at 10 o'clock last night, Saturday, the Foreign Ministers of France, Great Britain, Italy, Germany and Spain were to send to the Japanese and Chinese Governments, respectively, through diplomatic channels, identic telegrams calling the attention of those Governments to Article II of the Pact of Paris. He also informed me that the French Government is to telegraph notifications of this action to all signatories of the Pact of Paris in the name of the said five Governments, namely, of France, Great Britain, Italy, Germany, and Spain. In other words, the Governments now assembled at Geneva are following precisely the method followed in respect to the Russian-Chinese controversy in 1929,^{76a} except that the initiative is being taken by France in the name of the said five Governments instead of by the United States. When we receive this notification the opportunity will be open to our Government to send a similar note calling attention to Article II to China and Japan. I regard the situation as entirely satisfactory.

STIMSON

793.94/2277

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] October 18, 1931.

The Japanese Ambassador came to see me this morning, Sunday, to say that he had heard from Tokyo that Japan was withdrawing its opposition to having Gilbert sit in at the meeting of the League, reserving, however, its position on the juridical point as to whether under the Covenant of the League an outsider could be asked in without unanimous consent. Mr. Debuchi said rather ruefully that he realized this was an eleventh hour decision after the harm had been done. He then said that his telegram further stated the regret of Baron Shidehara that the Foreign Office spokesman had made the statement he did. He told me, however, that he was coming to the Department to tell this to the Secretary officially and added that he had merely told me in this unofficial way as I might want to tell the Secretary in advance of his official call.

I asked the Ambassador whether there was not a certain significance in a statement in the press, which was given no importance, that there was to be a meeting on Monday in Tokyo between Baron

^{76a} For correspondence concerning the Sino-Soviet conflict over the Chinese East-

Shidehara, General Minami, Prince Saionji, Count Makino and others to discuss the Manchurian situation. The Ambassador said that he felt this meeting was of vital importance on account of the standing of the men who were to take part and that he felt its influence would be very far reaching.

(Prince Saionji and Count Makino are certainly the two outstanding men of Japan so far as influence with the Emperor and on the Republic is concerned. Both, furthermore, are thoroughly pacific, both were of great help to me ⁷⁷ during the negotiations in London of the Naval Treaty⁷⁸ and although I could not telegraph the information so definitely to London, I ceased to have any fear that Japan would refuse to make a treaty after being told by these two gentlemen that Japan must and would participate.)

W[ILLIAM] R. C[ASTLE], JR.

793.94/2197 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 18, 1931—2 p. m.

[Received 2:20 p. m.]

215. Consulate's 213, October 17, midnight. In a private meeting of the Council which was held at 11 a. m., this morning, the draft resolution cited in the Consulate's telegram under reference was discussed.

The following changes were introduced :

[Paragraph] 1. "Normal relations between them, assumes that neither party" now reads "normal relations between them is confident that henceforward neither party."

Paragraph 2 unchanged.

Paragraph 3. "This statement is in accordance with the terms of the Nine-Power Treaty" now reads "this statement is in accordance with the principle of article 10 of the Covenant and with the terms of the Nine-Power Treaty."

Paragraph 4. "Restitution" now reads "restoration"; "adequately" is deleted.

Paragraph 5. "To begin immediately to proceed" now reads "to begin immediately and to proceed."

Paragraph 6 unchanged.

Paragraph 7 was recast as follows :

"Recommends that the Chinese and Japanese Governments should immediately appoint representatives to arrange the details of the

⁷⁷ Mr. Castle was Ambassador in Japan December 11, 1929-June 30, 1930.

⁷⁸ For correspondence concerning the London Naval Conference of 1930, see *Foreign Relations*, 1930, vol. 1, pp. 1 ff.

execution of all points relating to the evacuation and the taking over of the evacuated territory so that this may proceed smoothly and without delay."

Paragraph 8 now reads:

"Places on record the formal undertaking of both parties to begin, on the day on which the evacuation is completed, negotiations on all the questions outstanding between the two Governments including especially the questions arising out of recent incidents and out of controversies about the railway situation in Manchuria."

Paragraph 9 was eliminated.

NOTE: these changes were introduced in open discussion, and probably slight alteration in some of the wording may be made when a final English and French text is prepared. Such drafting changes will be however of no significance.

I am preparing a telegram respecting the discussion in this morning's meeting with particular regard to the status and employment of this draft resolution.

GILBERT

793.94/2202 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 18, 1931—5 p.m.

[Received 8:50 p.m.]

217. I quote below the text of a note addressed to the President of the Council by the Japanese representative. This note was discussed in the private meeting of the Council held at 11 o'clock this morning (Chinese and Japanese representatives being absent).

1. Up to the present the Japanese Government has cooperated sincerely in the work of the League and has endeavored to increase its prestige by every possible means. It considers that the League's action should in every case be strictly in accordance with the provisions of Covenant, and that this action should be both impartial and correct. If there is any departure from these principles for reasons of expediency the Japanese Government is of opinion that the authority of League is likely to suffer.

2. When the League Council discussed the question of inviting the Government of the United States of America to send an observer to sit on the Council, the Japanese representative expressed at length his doubts as to the interpretation of the Covenant—that is to say whether the presence in the Council of an observer of a non-member state was or was not compatible with the provisions of the League Covenant, and whether the question of the invitation could be or could not be regarded under the Covenant as a question of procedure. Although the Japanese representative asked the Council to examine these points the latter did not go fully into the questions raised by him

and likewise rejected his request that they should be referred to a committee of legal experts for examination. The President of the Council left all these legal questions in abeyance and put the question of the invitation to the note [*vote?*], regardless of the opposition of the Japanese Government's representative; he also decided that this was a question of procedure and stated that the proposal had been adopted by a majority.

3. The opinion was expressed that as the United States Government was a party to the Paris Pact it should have the opportunity of expressing its opinion before the League Council solely in regard to the application of that treaty. The Japanese Government is not only firmly convinced that the present situation is not such that there is any danger of war between Japan and China but also considers that, as the Paris Pact is a treaty between a large number of states including non-member states, the granting of an opportunity to sit on the Council with the right to express an opinion to the United States representative alone, raises a delicate question. This also shows that the invitation to the United States is not simply a question of procedure.

4. The Japanese Government cannot help feeling the profoundest misgiving as to the correctness of the precipitate adoption of a majority decision and the leaving in abeyance of the preliminary question whether a proposal requires unanimity or whether it can be decided by a majority. It is anxious to know when the legal questions outstanding are to be discussed and how the note [*vote?*] of October 15th will affect the result of those discussions.

Before deciding upon the attitude which it will adopt in regard to the questions now raised as a whole the Japanese Government will be happy to have the opinion of the President of the Council on the above-mentioned points."

After a short discussion it was agreed that Briand as President of the Council should draft a reply. Briand stated that his reply would probably be along the following lines:

There was nothing in the Covenant to prohibit the Council from calling at any time representatives of governments to the Council table to consult or exchange information. Referring to the fact that the Japanese representative had previously called attention in this connection to article 4 of the Covenant, he would make it clear that inviting the representative of the United States to sit at the Council table did not mean that he was incorporated in the Council body nor had the power to vote. The action taken therefore in inviting the United States was in nowise analogous to action under article 4 of the Covenant. The Council consequently considered that the question of inviting the United States to the Council table for consultation and exchange of information was one of "procedure". This was particularly true since the matter to be discussed with the representative of the United States was a question which did not concern the members of the League as such, and was not embraced in the provisions of the Covenant.

In regard to the question of the appointment of a committee of jurists to study the legal question cited by the Japanese, Briand stated that in reply to a direct question which he had previously put to the Japanese representative asking whether the Japanese Government would accept as final the conclusions of such a committee the Japanese representative had replied in the negative. Briand stated that in view of this attitude it would mean simply a loss of time to appoint such a committee.

Respecting the atmosphere of such a part of the discussion relating to this subject, it is natural as you will well understand that certain distress should be felt by some members of the Council, particularly those representing the small states, over any question of such a character being raised in the League. The spirit is, however, that technicalities must be laid aside at this juncture to accomplish a common objective, the maintenance of peace.

GILBERT

793.94/2200 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 18, 1931—6 p. m.
[Received October 18—3:20 p. m.]

218. Drummond has handed me for communication to you the following message from the Japanese Government dated October 14, which has been circulated to the members of the Council:

"Regarding the movement of Japanese troops at Mukden I have the honor to inform you that according to an official telegram from Tokyo, maintenance of order by the Chinese having become increasingly effective, the military authorities have decided to hand over the policing of the Chinese quarters to the Chinese gendarmes and police. Consequently the headquarters staff of the Forty-third Infantry Regiment which was quartered in the open town has been transferred to the former premises of the South Manchuria Railway Hospital inside the zone and the headquarters staff of the Seventy-eighth Regiment removed from the Chinese town to the arsenal outside the Chinese town. Eighteen hundred men have [been?] withdrawn and brought back either outside the Chinese town or inside the zone. There are at present only about 400 men left in the Chinese town and in the open town and 250 men in the industrial quarters.

The cruiser *Tokino* reached Shanghai on October 10th and reinforcements of 230 men were sent to the naval barracks October 14. I should be obliged if you would inform my colleagues on the Council of the above. Yoshizawa."

GILBERT

793.94/2207: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 19, 1931—9 a. m.

[Received 12:05 p. m.]

221. Consulate's 213, October 17, midnight; and 215, October 18, 2 p. m.

The draft resolution quoted in the telegrams under reference is not a finished plan comprising final conclusions to be presented to the Council for adoption but constitutes a tentative basis of action and embraces elements for negotiation between the President of the Council and the Chinese and Japanese representatives. It was the general opinion in the preparatory session yesterday that it would be premature to present and solicit their acceptance of its provisions. In this connection it was recalled that since the Council is acting under article 11 of the Covenant its proposals must be adopted unanimously, including the parties to the dispute, in order to be binding. Bearing in mind the opposing views already expressed by the two parties in regard to certain of the most important measures envisaged in this resolution the Council was of the opinion that it would be necessary to take some preliminary steps in order to feel out the ground and prepare the way for final action. After a brief discussion as to procedure the Council decided on a tentative program of action comprising the following steps:

1. A public session today to hold a discussion along the lines indicated in the Consulate's 216, October 18, 4 p. m.⁷⁹ The object of this discussion will be to obtain a public explanation of the intentions of the parties and to ascertain from them what they have already done to fulfill their engagements and how far they are willing to go to seek a common ground for agreement. This meeting will also serve the purpose of informing public opinion as to the status of the situation and in an exchange being in public render more effective any commitments obtained.

2. On the basis of the results of this discussion, and with the draft resolution as a guide, Briand is to carry on private negotiations with the parties in the attempt to find a compromise solution.

3. If no agreement is reached in this way the Council is to intervene and suggest the program embraced in the draft resolution, after further study of and modification of its provisions in the light of any concessions or proposals made by the disputants.

The following are the chief considerations which led to the more important changes made by the Council yesterday in the text of the draft resolution, as reported in the Consulate's 215, October 18, 2 p. m.:

⁷⁹ Not printed.

Paragraph 1. The insertion of the word "henceforward" was suggested by Madariaga in order to carry the implication that "aggressive action" had been resorted to in the past. Briand accepted the change though he felt inclined to avoid any disagreeable allusions to the past.

Paragraph 3. Attention was called to the analogy between article 10 of the Covenant and the clause quoted from the Nine-Power Treaty. The reference to article 10 was inserted in order doubly to reenforce the obligation and link it up with action under the Covenant.

Paragraph 7 was partially recast in order to make it more flexible and to avoid any explicit mention of "direct negotiations" which would be disagreeable to the Chinese by leaving the impression of supporting the Japanese insistence on this point.

Paragraph 8. [Paraphrase.] This constitutes the pivotal center of the entire program of action. Lord Reading strongly opposed the original wording of the text on the ground that the terms, being too elastic, would at best result inevitably in slight progress toward Japanese evacuation and in further disputation at the end of the term fixed. Evacuation would be delayed by the Japanese until the time for direct negotiations approached, while the Chinese would refuse to negotiate directly because of the delay in evacuation.

The more elastic original text was preferred by Briand on the ground of Japanese fear lest, upon completion of the evacuation, the Chinese should refuse direct negotiations on the sum total of questions pending between them. Briand reaffirmed the need for intervention by the League being confined to the questions of evacuation and of security, with all other matters to be left for settlement through direct negotiations, for the League would be involved in an interminable process by any other course. Moreover, Briand did not wish either party to be given too much encouragement, as this might be taken advantage of.

It was decided, upon the insistence of Reading and Madariaga, that formal undertakings should be given for the initiation of direct negotiations on the day when the evacuation is completed. [End paraphrase.]

For the sake of greater simplicity the references to previous numbered paragraphs were deleted.

Paragraph 9. For fear of opposition on the part of Japanese to the formal acceptance of this proposal, it was decided at least for the present not to include this paragraph in the resolution but to allow the President of the Council to make the suggestions at an appropriate moment in a general statement.

793.94/2201 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 19, 1931—10 a. m.

[Received October 19—6:55 a. m.]

222. Consulate's 213, October 17, noon [*midnight*] and 215, October 18, 2 p. m.

Final draft of resolution introduces the following changes reported.

Paragraph 3. "With the principle of article 10 of the Covenant" now reads as follows: "With the terms of the Covenant of the League of Nations."

Paragraph 8 now reads as follows:

"Notes the formal engagement of China and Japan that on the day on which evacuation is completed direct negotiations will begin between the two Governments on questions outstanding between them, including those raised by the occupation of the territory, as well as existing difficulties arising out of the railway station [*situation?*] in Manchuria, a practical solution of which should be sought by means of arrangements between the Chinese and Japanese railway administration."

GILBERT

793.94/2208 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 19, 1931—1 p. m.

[Received October 19—6:15 a. m.]

793. Following from Hanson and Salisbury at Mukden, October 17, 5 p. m. and October 17, 6 p. m.

"1. Arrived yesterday at Antung at 7 a. m. and departed 2:45 p. m.

2. According to Chinese officials and Japanese military and civil authorities we interviewed there, on September 19th early in the morning about 50 Japanese regular soldiers from Shingishu, Korea, entered the Chinese city of Antung, disarmed the entire force of Chinese police, took possession of the Chinese governmental establishments, with the exception of post office, and put out of commission the electric-light plant in the Chinese city. There were not and have not been for a long time any Chinese soldiers in Antung. At the same time Japanese South Manchuria Railway guards from Liutaokow, about 1 mile outside the city, disarmed and sent by rail to Mukden several hundred Chinese soldiers stationed at Fenghuangchen, about 30 miles from the city. These were the only Chinese soldiers stationed in the vicinity of Antung.

3. Three or four days later the Japanese soldiers left the Chinese city and Japanese gendarmes were stationed at the offices of the magistrate and of the city, river and district police. The Chinese telegraph office was closed by the Japanese gendarmes on September 19th and was still closed when we tried to send a telegram on October 16th;

according to the postmaster, the Japanese gendarmes commenced censoring the Chinese post-office mail on October 13th, special attention being paid to mail addressed to Chinese officials and the delivery of the Chinese newspapers from Shanghai and Tientsin being prohibited.

4. The Chinese-owned electric-light plant owes Andersen, Meyer and Company, an American firm, \$90,000 gold for equipment. When asked why the Japanese soldiers put out of commission this plant, Mr. Yonezawa, the Japanese Consul at Antung, replied that it was done for military reasons which he did not understand, inferred that the Japanese electric plant had a monopoly on furnishing electric current, and said that the Chinese company had no right to operate and that it could not make enough profit to pay interest on its debt.

5. Roy Talbot, American Commissioner of Chinese Customs at Antung, informed us that the Japanese military, who stated that they acted in order better to defend the Japanese railway bridge across the Yalu, closed the customs inspection shed at the Antung end of this bridge. This forced the customs to attempt inspection work in tents located several hundred feet from the bridge with the result that inspection, except of trains, is practically impossible and the way is now open for the entry into Manchuria of large amounts of goods which do not pay duty, thus seriously affecting customs receipts. There is no longer any cooperation with the Customs on the part of Japanese officials. We inspected the customs situation at the bridge-head and found it to be as described by Mr. Talbot.

6. When we called at the office of the Chinese magistrate he stated that he could not talk frankly with us as there were Japanese gendarmes listening to our conversation behind the curtain at the end of the room where we were. We saw two Japanese officers behind the curtain mentioned. The magistrate agreed to meet us a half hour later at the Chinese Chamber of Commerce, where he informed us that Japanese guard had been stationed over him in his office since September 19 for reasons unknown to him. He stated that, when the Japanese Chief of Gendarmes informed him of the expected arrival of Japanese troops, he protested against their arrival on the grounds that conditions were peaceful in the city, that the 600 Chinese police had maintained and could maintain order and that the quarrel between Japanese and Chinese at Mukden was no concern of the Chinese inhabitants of Antung. He also said that a committee consisting of himself, the chiefs of city and river police, the chairman of the Chamber of Commerce, one banker and two merchants, one of whom speaks Japanese, had been formed to advise in regard to maintenance of peace and order in the city. This committee meets once daily but has no governmental power. We could not discover whether the Japanese had anything to do with the formation of this committee. According to the Chinese officials, they are being prevented from receiving instructions from Chinchow or Nanking and therefore they are compelled to act independently of any outside Chinese authority.

7. The thinking Chinese at Antung are very much opposed to the occupation by Japanese gendarmes of the Chinese city of Antung.

8. The Japanese Consul and 4 Japanese military officers with whom we talked for 2 hours stated that although there had existed only

friendly relations between the 12,000 Japanese and 10,000 Koreans and the Chinese, the Japanese Army felt it necessary to disarm the Chinese police to prevent them from making an attack on the Japanese concession, where practically all the Japanese residents were living.

When asked when the Japanese gendarmes would withdraw from the native city, they replied that this would be done as soon as they were sure that conditions would remain quiet and that the danger of an attack by bandits would disappear. In this connection we might remark that both Japanese and Chinese interviewed stated that the city of Antung has for many years been practically free of banditry. As far as we could ascertain there are various disbanded soldiers in this neighborhood and, therefore, there is no more danger of an attack from brigands than there was before the Mukden incident occurred. The Japanese Consul informed us that there was no Japanese censorship at the post office and that telegrams could be despatched by the Chinese telegraph office. These were misstatements and, considering the fact that he made other misstatements, it was apparent that he was attempting to mislead us. In reply to a question in regard to the presence of two Japanese officers in the magistrate's office, Captain Kato, chief of the gendarmes, stated that he had no knowledge of their presence there but would investigate. As the conversation developed he admitted that he himself was living at the magistrate's office and we discovered that he was one of the officers we had seen behind the curtain. The Consul then stated that the reason the gendarmes were there was to see that peace and order were being maintained in the city.

9. Mr. Talbot was informed late in the afternoon of October 16 by the Japanese commander of the Japanese troops at Shingishu that he was withdrawing on that day to Korea his troops (about 150) stationed at Antung. The withdrawal of these troops will have no effect on the control by Japanese of the native city for, as long as the Japanese gendarmes remain there, the Chinese Government institutions will not be able to function independently. We could see no indication of a desire on the part of the Japanese to withdraw their gendarmes from the native city or to return to the *status quo ante*, although they had returned 40 rifles (of 500 taken) to the Chinese city police, who were patrolling the streets under the direction of the Japanese gendarmes.

10. We believe that, as far as actual protection from possible attacks against Japanese residents is considered, the Japanese authorities were not justified in taking possession of the native city of Antung, as they had near at hand ample police and military forces to quell almost instantly any anti-Japanese outburst.

11. In our opinion the immediate withdrawal of the Japanese armed forces at Antung would not result in any danger to the lives and property of Japanese subjects there. In view of the fact that there are Japanese gendarmes and 150 Japanese police in the Japanese concession, some Japanese railway guards stationed one-half a mile away at Liutaokow, and many Japanese soldiers at Shingishu, we believe that neither the Chinese Government police nor inhabitants, no matter how bitter they felt against the Japanese, would dare attack the Japanese inhabitants and that a brigand attack could be easily warded off.

12. Four days after the Japanese took over the native city, through a misunderstanding brought about by a Chinese policeman shooting three shots, Japanese gendarmes sent to restore order, firing into a crowd of Chinese who had taken refuge in a silk mill during the excitement caused by the shots and who had armed themselves with spears and other weapons to resist the Japanese gendarmes. Four Chinese were killed. This was the only bloodshed which occurred in connection with the Japanese occupancy of Antung.["]

Not repeated to Tokyo.

For the Minister:
ENGERT

793.94/2271

Memorandum by the Secretary of State

[WASHINGTON,] October 19, 1931.

The Japanese Ambassador came to tell me of three things.

First : He said that Baron Shidehara had authorized him to say that Japan had withdrawn her objections to Mr. Gilbert's participation as an observer in the meetings of the Council, although Japan remained insistent on her position that the action of the Council in admitting him was illegal.

Second : He said that Baron Shidehara retained his fullest confidence in the friendly attitude of this government and was very grateful for our friendly cooperation with Japan in this matter, about which he had previously expressed himself.

Third : He said that Baron Shidehara had authorized him to express to me his regret for the statements attributed to the spokesman of the Foreign Office the other day which were not authorized by Baron Shidehara.

The Ambassador then went on to say that there was some good news which he had to tell me, about events in Manchuria—not very important items, he said, but good as far as they went. He stated—

1st. That the radio station in Mukden, about the seizure of which I had protested, was to be turned back to its owners within a day or two and radio communication restored with the outside world.

2nd. That the foreign banks in Mukden were already open and doing business.

3rd. That Japanese withdrawals into the railway zone were still continuing.

4th. That the Japanese had had in Manchuria only one squadron of scouting planes and one squadron of fighting planes, and that the squadron of fighting planes was being sent back to Korea.

5th. That the operation of the railways was being restored.

I asked the Ambassador about the report that the construction of the railway from Kirin to Hueining was progressing normally.

He said that this railway was being constructed by the Chinese and the despatch evidently referred to Chinese construction. I told him that I had received a good deal of information from many sources as to the situation in Manchuria and that I now unfortunately had very strong evidence that acts of aggression had been committed in Manchuria by men wearing the Japanese uniform and under the Japanese flag; that I had clung to my belief that the actions of these men were not authorized by the Japanese Government, in which I had faith, and I hoped that neither Baron Shidehara nor the Japanese Government would take any action which would amount to a ratification of these acts, because if they did I would be driven to the reluctant belief that the Pact of Paris had been violated. He admitted his belief that such acts had been committed, but he said he was very confident that they would not be ratified by his government.

He then asked me what was happening in Geneva. I told him that I had been informed that five nations had sent notes to China and Japan under the Pact of Paris. He said he had heard that and had no doubt that those notes had been received. He asked me whether these nations had notified me of their action and requested us to do likewise. I said that I had been informed that they would notify us, but no notification had yet been received.

Before leaving, the Ambassador handed me the annexed memorandum of the number of Japanese, British and American men-of-war now actually in service in China.

H[ENRY] L. S[TIMSON]

[Annex]

Memorandum From the Japanese Embassy

FOREIGN MEN-OF-WAR IN CHINA

	Cruisers	Destroyers	River gunboats	Total	Submarines
Japan-----	6	11	12	29	-----
Great Britain-----	6	6	19	31	-----
United States of America-----	1	17	7	25	10

793.94/2207½

*Memorandum of Trans-Atlantic Telephone Conversation*⁸⁰

SECRETARY: Mr. Gilbert? Has any invocation been sent to the United States by France on behalf of the Five Powers?

GILBERT: Yes, sir. I understand so.

⁸⁰ Between Mr Stimson in Washington and Mr. Gilbert in Geneva, October 19, 1931, noon.

SECRETARY: It has not been received yet. They are intending to send one are they? Do they intend to send a formal notice to us?

GILBERT: Absolutely. The Foreign Ministers of France, Great Britain and Italy met on Saturday night and arranged at that time to send a notification to all signatories, of which Washington was one.

SECRETARY: Tell them it has not been received and verify it, will you?

GILBERT: I will verify it at once. I understood it is going to all signatories. They wanted to place the United States in a special position, but I said no—send it to Washington as just one of the signatories.

SECRETARY: We are holding back our note until we get it. Our note ought to go at once—today. If it has not been done, you look it up. Here is point No. 2. I am sending you instructions today⁸¹ that in view of the fact that the Kellogg Pact matter seems to be disposed of, we think that it is wise for you to withdraw from the meetings. They are now taking up matters which belong peculiarly to the League and we all think here that in view of that fact and in view of present tension with Japan it would be better for you to withdraw. You will receive notice to do that, by cable. It has been sent now. Of course, make your position clear that you stand ready and available for consultation at any time there is need of it; but your presence there in case they should discuss other matters under the League covenant alone is open to misconstruction both here and in Japan. Do you understand?

GILBERT: I understand perfectly. I would like to say something. The Japanese came to see me today and told me they had prepared a statement which the Japanese wish to make at the opening of the next public meeting of the Council, in which they wish to say that their objection to the United States was entirely on juridical grounds. I prepared a brief reply. Briand wished them to say something at the Council of that sort favorable to the United States to relieve the tension. It was also arranged by Lord Reading. They are very anxious that that statement on the part of the Japanese should be made public and that I should make a reply.

SECRETARY: What kind of a reply?

GILBERT: It would seem most unfortunate for me to withdraw before the Japanese have had the opportunity to say that.

SECRETARY: What do you propose to reply?

GILBERT: I have the statement here. I will read you the Japanese statement and my reply.

SECRETARY: Read me your statement.

GILBERT: "I have heard with deep gratification what the representative of Japan has said, and I wish to assure him that I heartily appre-

ciate the spirit in which he has spoken. I have never had any thought of attributing this decision in this matter to other than juridical considerations, but it gives me great pleasure to be able to hear him say this himself, and to reassure him that on my part they may have no fear of my interpreting his attitude in any other light. The sentiments he has expressed as to the friendship and amity between our countries are cordially reciprocated. The long period of friendship between our people and the people of Japan is among the happiest stages in our history. It is furthest from our minds that that record will ever be broken."

SECRETARY: That is the end of the statement? That is all right. I am very glad to have you stay until that is done, provided it is done right off.

GILBERT: I cannot say when the next meeting is to be held. Briand and Reading have all worked on the Japanese very hard to get them to make the statement.

SECRETARY: Let them say it before they get into the other matters. I will tell you what I am afraid of. The resolution which they are working on now contains certain matters which in my opinion will probably not be adopted by the Japanese and will probably lead to a new deadlock.

GILBERT: I will tell you just what is happening here. They have no intention at the present time of submitting a resolution which will not be adopted by the Japanese. The resolution which they are working on, of which I am now sending you various amendments, is merely a project developed in the private meetings, by Briand and Reading and sometimes Grandi. Briand is all the time working with the Japanese and the Chinese to get their acceptance of various elements and work out a compromise. There is no intention now of any kind to present a resolution which would be in the form of a public ultimatum for the acceptance of Japan and China. It is all being worked out in private conversations to reach a possible solution and that is the plan they are working on now. They have private meetings of the Council in which the policy of proposed projects is discussed. Briand works on the Chinese and Japanese and comes back and reports the results, and is going on in that way until something is reached which can be accepted in public.

SECRETARY: I understand, and I am very glad to hear it. I want you to know my views. That is going to take a long time. They are not going to accomplish a resolution which will be acceptable to both the Chinese and Japanese without long and laborious negotiations. In the meanwhile they are attending to something which relates purely to the League of Nations and not to the Kellogg Pact and it is something which conceivably may make a deadlock or renew trouble at any time in which Japan may be strongly arrayed against the League.

You are in there simply to handle the Kellogg Pact matter and by staying in while this resolution is being argued and worked out, you run the risk of being apparently dragged into a conflict between the League and Japan. I want you to arrange with the League at once, talking with Reading, Briand and Grandi, so that they can see that we must make clear here the fact that your sitting in there has been, as we have always stated, connected solely with the Kellogg Pact. And also for these other reasons it is quite undesirable that you should remain there, because it may bring up again the issue between America and Japan. Therefore, they ought to be able to arrange a brief public meeting at which this Japanese statement could be made. The quicker that statement is made the better will be its effect both here and in Japan, while if it is delayed during long negotiations in secret there will be all kinds of rumors and guesswork in the press concerning the issue between Japan and America. If they would hold a very brief public meeting, even if only for a few minutes, to dispose of this matter, that would do more to end the trouble which the press is speculating about now, namely, trouble between America and Japan, than anything else, and then it would leave you free to get out and clear the situation in that way, while they go on working and knowing all the time that we are ready to consult again whenever it seems appropriate to do so and can always consult informally with you or with me here so long as you remain in Geneva. It would very much clear the air from a general standpoint if those speeches of the Japanese representative and yourself were made right off and the atmosphere cleared up. Then you could withdraw on the ground that the function for which you were admitted publicly to the League was over, remaining standing on the sidelines ready for consultation in case you were needed. I want you to do that and I shall send you a cable confirming this.

GILBERT: Mr. Secretary, if I withdraw, then I would like to have a statement to make at the time of my withdrawal.

SECRETARY: You will find enough material to make this statement in my cable which has already gone to you.

GILBERT: Shall I in any way discuss the effect of this withdrawal with Lord Reading before I actually do it.

SECRETARY: Yes. Certainly you want to notify your fellow members, like Reading and Briand, that you are going to do this.

GILBERT: They may have various ideas of their own on the international effect of it.

SECRETARY: I cannot help that. We must be the judge of that here. I want you to be courteous to them and hear them, but unless there is something very astonishing, I want you to go ahead and withdraw after the public meeting.

GILBERT: There is only one point. May I make it? I am afraid it will be impossible for me to ask them to have a special public meeting for that purpose as they are very anxious at the next public meeting, which I think will be tomorrow or next day at the latest, to indicate to the world that they have moved a little ahead in this matter. I feel that it will be asking too much of them to raise public opinion by the announcement of a public meeting and then have nothing other happen than my withdrawal. If that could be accompanied by something else to present to the world, it would be very much better.

SECRETARY: Is it not possible to have the statement of the Japanese representative and your reply given out to the press without having a public meeting?

GILBERT: I do not know. They worked this up with great difficulty with Tokyo and in that way in stages, feeling this would relieve tension.

SECRETARY: Read the statement of the Japanese representative. I am afraid there will be an indefinite delay and I am sure they propose to present certain things in their present resolution which will take a lot of time.

GILBERT: I do not think the next meeting will be under that resolution necessarily. Their plan was to have it at a certain point to ask Japan and China what they had done under the commitments already given. I am afraid they cannot defer that more than another day. I feel that it would be too much to ask in view of the way the League feels about this entire matter and the rather great difficulties they have experienced. It would be better if I could allow them that much time. I am very sorry. Of course I will carry out any instructions naturally, but I am presenting the way it looks to me. If I could withdraw at a natural meeting it would be better. Otherwise it would look as if Japan had demanded that I withdraw.

SECRETARY: I do not want that to occur. Suppose you read me the Japanese statement.

GILBERT: It is purely on juridical grounds. He is speaking to members of the Council. "I raised the objection the other day, from a constitutional point of view, to inviting a representative of a non-member state to participate in the deliberations of the Council. . . .⁸² They still maintain the legal stand I took on that occasion, but now that the representative of the United States sits at this table, I am glad to assure him and the members of the Council that it is the traditional policy of my country to promote friendship and amity with the United States, and both the Government and the people

⁸² Omission indicated in original memorandum.

of Japan are determined to live in peace and good will with that country by following this policy consistently at all times."

SECRETARY: Let me ask you a question. In these secret meetings which are going on now, are you sitting?

GILBERT: Yes, sir.

SECRETARY: Why is that necessary?

GILBERT: I can withdraw if you desire.

SECRETARY: That might be the solution of it. If they would have the public meeting within a day or two and if you will withdraw from going to the secret meetings and let that leak out in the press there, then it will not be necessary to make a formal withdrawal. But I do not want you to be sitting in at the meetings in which this resolution and matters of that sort under the League covenant are being taken up and I want it to be known that you are not.

GILBERT: I was going to suggest something of that sort. Then I will not go to the meeting today or tomorrow. I will arrange my liaison to get the information anyway.

SECRETARY: Of course you will get that from the representatives.

GILBERT: The reason I have sat at the secret meetings was because we accepted an invitation to be an auditor and the belief was that at any meeting of the Council I would continue to be an auditor and observer.

SECRETARY: There is no need of doing that. I do not think it is necessary. You can explain the situation to Briand, Reading and Grandi, so that there will be no misunderstanding.

GILBERT: Then I will go into the next public meeting anyway.

SECRETARY: Yes, you can go into the next public meeting, that is, if it is not postponed too long.

GILBERT: And that would be the last meeting?

SECRETARY: Yes, and it would be my preference that they should take up your and the Japanese representative's statements in the very beginning, before they take up the question of what reports are made under their own resolution of September 30th. That will allow you to retire gracefully before they take up those other matters in public. Is that clear?

GILBERT: Yes, sir. I will talk with Lord Reading and of course I will tell him what I will do. If he has any comment which is really pertinent, I shall let you have the benefit of it.

SECRETARY: But in the meantime, I expect you not to attend the secret meetings, and let this leak out to the press.

GILBERT: And not make a statement that I am not attending.

SECRETARY: Let your colleagues know what the grounds are. It is clear to us here that you have attended to the matter which it was your purpose to participate in, and that is over. What they are

working on now are matters which in no way relate to the Kellogg Pact. Unfortunately an issue between Japan and America in the press has arisen and it is important that no color should be given to the idea that America is participating in secret meetings aimed against Japan.

GILBERT: I understand, sir.

SECRETARY: And therefore you will stay away.

GILBERT: I understand perfectly, and I will then, after talking to Lord Reading, formulate the most graceful way of doing this. If he has any suggestions to make which will make it as easy as possible for them.

SECRETARY: I am very anxious to make it easy for them and they must know, as you will see from my telegram, that we will continue to cooperate with them.

GILBERT: I understand.

SECRETARY: But I do not want to have the danger of the misunderstanding in Japan, as well as in this country, which would arise from your participating in secret meetings on these other matters.

GILBERT: I have never spoken a word at the meetings.

SECRETARY: I know. I have not the slightest suspicion of you and have nothing but congratulations for the way you have handled this. But I want to protect you against any such unfortunate suspicions.

GILBERT: Thank you, sir. If I could discuss this frankly and confidentially with Lord Reading and he has any really pertinent thing to add, I will let you know at once.

SECRETARY: Yes, keep me posted just as fully as you can.

GILBERT: I cannot go so far as to ask them to have a special public meeting. It would have a very bad appearance before the public.

SECRETARY: I do not ask that, as long as you do not go to the other meetings and the public meeting is not too long deferred.

GILBERT: I think that is the best way—if I do not attend the secret meetings but merely disappear. Are you satisfied with the action on the Kellogg Pact here? As far as the action taken here goes, it was just as you wanted I think. From the technical point of view there was one difficulty that had to be straightened out. They felt that Washington being the depository of the Pact, we were the nation which would have to send out the notifications, and I had to take my own responsibility to say that the states initiating the action were the proper ones to notify the other signatories.

SECRETARY: You did that very well indeed.

GILBERT: The fact that we had invoked the Pact once ourselves and were at the same time the depository state did not create a general precedent, and I took the responsibility of saying that those were your views. Was that satisfactory?

SECRETARY: You did very well. I am very much gratified.

GILBERT: Thank you, sir. I will see Lord Reading at the first opportunity.

SECRETARY: You can tell Reading and the others that the form in which the invocation of the Kellogg Pact took place was exactly the way in which I think it was wisest to do it and it accorded fully with my views.

GILBERT: I will take this matter up at once.

793.94/2220a : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 19, 1931—1 p. m.

101. If discussion of application of the Kellogg Pact has been concluded, I can see no good reason for you to continue sitting at Council meetings. It seems evident that further discussions will be concerning action which the League is to take under its machinery, and we can take no part in this. Should the situation not improve, the Council possibly might discuss action under the Covenant's article 16, and in this case it is essential for you not to be present. Therefore, I deem it wise that you now withdraw on the ground that, though your presence seemed advisable during the Kellogg Pact discussion, there appears no adequate reason for your attendance at meetings where necessarily the discussions must concern procedure under the Covenant. The League must of course understand that this Government will continue to use its influence through diplomatic channels in support of the general objective, that is, to preserve peace between China and Japan, and it should be stated by you that you will be available for consultation at any time.

STIMSON

793.94/22073

*Memorandum of Trans-Atlantic Telephone Conversation*⁸³

DRUMMOND: Mr. Secretary, Lord Reading would like to speak to you.

READING: Hello, Mr. Stimson, Reading speaking. Can you hear? Mr. Gilbert has just informed me of your instructions to him to withdraw from the sessions of the Council on the ground that the objective

⁸³ Between Mr. Stimson in Washington and Lord Reading, British representative on the League of Nations Council, in Geneva, October 19, 1931, 3:15 p. m.

of his participation has now been reached. I do not wish to suggest that you withdraw your instructions but I am sure it will be regarded, whatever explanation would be given, as expressing definite disapproval of the discussions now proceeding to the extent that you will not even allow your representative to sit at the table in accordance with the terms of your acceptance of the invitation as publicly announced and the subsequent speeches. Above all, I do want to state I am afraid of its effect (I am speaking frankly. You don't mind) of its effect upon the various countries and upon the rest of the representatives on the Council. It will, I fear, be disastrous (I cannot refrain from using strong terms) if after those most gracious terms of acceptance you will almost immediately thereafter withdraw so that the objective other than the Kellogg Pact cannot be reached: with the exception of the invocation of the Kellogg Pact which has since been done, nothing has yet been done except to attempt to draw up a resolution which both the Chinese and Japanese Governments will accept. That is what we are trying to do now. I have not dared to mention the matter to Briand or to any other member of the Council. The withdrawal would have the most serious effect upon Briand and may quite seriously bring about his downfall as Foreign Minister. It will be most dangerous you see. And of course the effect upon the disarmament conference which we are now discussing and making preparations for will be very serious and just now especially when my government as well as all others (connection interrupted). That is its possible effects upon the world's financial and political situation.

SECRETARY: I know it is very difficult.

READING: I assure you that it will have really disastrous effects. They will say you disapprove of the Council's action. Whatever you may say they will think that the cooperation which is expressed in your letter includes the discussions of what we are going to do in the League with regard to Manchuria as mentioned in the public letter. Now it is all right about the Kellogg Pact but it is after all the other thing that is the difficult thing which we are now discussing and about which nothing has happened. You are taking quite a different stand and consequently seem to disapprove of what we are now doing and that will be regarded as the only reason why you would be withdrawing. Am I making myself clear?

SECRETARY: Can you hear me now. Did you not see the instructions under which Mr. Gilbert was authorized to join? Did you not hear the instructions under which he was authorized to participate in the meetings?

READING: Yes.

SECRETARY: They were very clear in limiting his participation to the treatment of the Kellogg Pact.

READING: Yes, but it was not only that you see. I have the letter here. I will just read it if I may.

SECRETARY: I have it here before me.

READING: If you will look towards the last part of the first paragraph. It says there he is "to be in a position to consider with the Council the relationship between the provisions of the Pact of Paris and the present unfortunate situation in Manchuria, and at the same time to follow the deliberation of the Council with regard to other aspects of the problem with which it is now confronted." You see that deals with two things.

SECRETARY: You have not got the last copy of his instructions—the second copy of the instructions.

READING: I have not got that with me. At the moment, I heard it of course.

SECRETARY: In the light of what occurred when the Japanese made a particular issue with this Government I, for the purpose of clarifying those instructions, sent another set. The situation was changed when the Japanese made their special issue with this Government by objecting to the seating of Gilbert and also by the announcement of their Foreign Office in Tokyo. We then sent instructions to Gilbert clarifying the former ones a little, so as to make it clearer that he was limited only to participation.

READING: That is all he is doing.

SECRETARY: You have finished the Kellogg Pact matter have you not?

READING: The Kellogg Pact. Yes, but we have only finished the first part of the discussions for which he was desired. We have done that but of course the other part of it is the thing we are now engaged in. If he withdraws now, having announced that he was there for the Government of the United States to sit in the deliberations of the Council with regard to other aspects of the problems arising because of this unfortunate situation in Manchuria with which it is now confronted, that is not as we understood his participation.

SECRETARY: Lord Reading, I have not got here before me the two papers but the situation must have been made clear to you that his only participation was to be in regard to the Pact of Paris. In all other matters he was to be merely an observer and that part was put in for the purpose because we did not know how long the sessions of the Council would last before the Pact of Paris was finished. Now you have embarked on a very long series of negotiations which do not relate to that.

READING: We are at the present moment in long series, trying to arrive at something to which they will agree. If we can get the two governments to agree now to an announcement.

SECRETARY: That may take some time in working out.

READING: We haven't come to a conclusion. We haven't even got to that yet we are just still discussing it. We hope to get it through within the next 48 hours but I cannot tell.

SECRETARY: I am going to be just as frank with you as you have been with me. I have read your new resolution and I think it is going to take you a long time to get through that. Unless it is very materially modified.

READING: What we are trying to do here is to work out their facts and see what modifications can be accepted that is what we are discussing with them.

SECRETARY: The whole situation seems to me to have been very materially modified by the very unexpected attitude Japan has taken towards American participation, the unexpected objection that Japan has made to our sitting with you at all.

READING: Who the Japanese?

SECRETARY: Yes. I do not want this whole situation to be confused so as to inflame the Japanese and thereby protract peace. They have taken a very narrow position but it is one out of which a great deal of dust can be raised in the newspapers at large, both in Japan and elsewhere. The objection which Japan has made to American participation has created a new issue which bids fair greatly to delay and make more difficult the final solution if anything is done to aggravate it, and I am very much afraid that if Mr. Gilbert continues to sit in sessions of the Council which are clearly not devoted to the matter for which we authorized his participation the Japanese will jump to the conclusion that we sought to get in there in order to push you along to more vigorous action against them, if you see what I mean. They will think we have some ulterior motive against them. I don't know whether you have seen the news from Tokyo? It indicates rather an unpleasant attitude towards this government—singling us out. There has thus been created an issue between Japan and America. I think it is not the part of wisdom to do anything which will allow them to accentuate that.

READING: We have accepted that situation and they are willing and say so.

STIMSON: You have not said so publicly and they have not said so publicly. Let me make [it] clear to you. I told Gilbert this morning that he was at once to withdraw from the secret sessions where he is now sitting merely as an observer—the sessions at which Japan and China were not participating. If Gilbert goes to meetings which are secret and in which Japan is not represented and China not represented, it will undoubtedly lead to suspicion in Tokyo. It will undoubtedly give a most suspicious look to the case, a most sus-

picious appearance in the minds of the Japanese to have Gilbert continue going to meetings which no longer have anything to do with the Kellogg Pact and which are secret meetings at which Japan is not represented.

READING: Well, but you know, of course, it would be unfortunate if it had to happen but how would it be if he attended the one tomorrow. I think at most it would be a session in the morning in which we want to hear the result of certain interviews today between the President and Japan and China and then after that if you don't want him to attend the secret sessions they could be so arranged—what we will do—we should have a day in order to do that. We should end our secret session.

SECRETARY: It would not do for us to state in the same way that he was attending any secret sessions because some inferences would be drawn.

READING: I quite follow your point of view. In order to meet it as regards the secret sessions—What I was suggesting to you was to let him attend the meeting tomorrow. He will take no part and then not attend any further secret meetings. After that I think what will be necessary, what I am myself very anxious we should have is a public session and then from that moment we won't have any more secret sessions.

SECRETARY: Of course that will be commented upon.

READING: But it won't be so important. It won't be so much noticed if it is not done suddenly like a withdrawal tomorrow morning. If he can go and attend that and then if we do not have any further secret sessions until after the public meeting and then after that public meeting he can drop out the secret sessions altogether. No announcement need be made to that effect; simply he will not be sitting at the secret sessions.

SECRETARY: I have already authorized him to attend the public session tomorrow at which I understand the Japanese are going to withdraw their objection or to say their objection was purely on juridical grounds and Gilbert is to make a reply to that. It has been my view and still is that that offers the best time to declare that the Kellogg Pact work is finished (I mean the Pact of Paris), and to give Mr. Gilbert an opportunity to say that that being so he will attend no more meetings unless you desire to consult with him or to consult with this country on some other matter on which we are directly concerned. You see we have got to look out also for our future steps in this matter in the light of American public opinion. American public opinion has been quite alarmed at the thought that we were going further than was warranted by our treaties. They are not altogether reassured of the language of the authority which has been

published here which is about as clear as the English language could make it.

It is because I am so anxious that nothing shall be done to undo the measure of cooperation which I have found possible thus far and that we shall not excite adverse public opinion here which would make such action impossible in the future, that I have been anxious to make it perfectly clear that we are cooperating with you only on matters in which we had a business to cooperate, namely, matters to which we were parties by treaty. Do I make myself clear? Now you are going on into the consideration of the resolution of September 30th or rather a follow-up resolution to that resolution, a matter which you carried on under the League of Nations covenant and without our participation then, and there is the American man in the street to consider, who will say there is no more reason for Mr. Gilbert to participate now than there was when the original resolution of September 30 was made. So I thought that was the natural place for him to withdraw, remaining only in reserve. He will be available for consultation in case a matter comes up again which is directly in line with this country's obligations and duties.

READING: Very well.

SECRETARY: Do you not see that so long as he is going in and out of the council chamber it makes two kinds of objections. First, that he is doing more than our treaty duties call for and second that he is really the embodiment of this country's hostility towards Japan. I want to show two things. I want to show that we are not meddling either beyond our own obligations recognized here in America or above all beyond what we are entitled to directly with Japan, and there is a very strong feeling evidently in Tokyo that it is we who are trying to get Japan out of Manchuria. That I will have to look out for, because it will delay peace throughout the world. It will block what you are doing. It will make your task more hard. It does not mean that I will not myself keep on in the same line as before and it does not mean that you cannot call Gilbert whenever a matter comes up which will be recognized as directly concerned with what he has already been doing.

READING: What I can't quite follow is this—I am not hearing very well. He came in under the League invitation and under the letter on your behalf with regard to the Pact of Paris to follow the deliberations of the council with regard to the other aspects of the problem on which action was required by the council. The Second is now going on and deliberations are proceeding. All he is doing is following the deliberations of the council with regard to these other aspects of the problem. If he withdraws from that objective—there are really two: one is the Pact of Paris and the other the other aspects of the

problem with which the Council is confronted—there will be great difficulty you see. Certainly nobody at the council was thinking he was being limited to the Pact of Paris because in the letter of the President to Mr. Briand both those matters were referred to and he was invited and accepted in your name to follow the deliberations, not to take part in them of course but merely to hear and observe. That is quite understood. It was with regard to both that he was welcomed.

SECRETARY: That is one of the difficulties in handling a matter so far away. As a matter of fact I did not see the answer or the invitation until after they had been delivered but here is the instruction under which Mr. Gilbert was acting and to which I alluded. It will make clear to you my standpoint here and this of course is in the light of not only the attitude of the Department of State but the general opinion of this country. My language when I authorized him was as follows: "You are authorized to participate in the discussions of the Council when they relate to the possible application of the Kellogg-Briand Pact, to which treaty the United States is a party. You are expected to report the result of such discussions to the Department for its determination as to possible action. If you are present at the discussion of any other aspect of the Chinese-Japanese dispute, it must be only as observer and auditor."

That represents the way in which my mind projected itself into this matter.

READING: I think that is as we understood it.

SECRETARY: But when a situation arises where the Kellogg-Briand Pact is finished and where there seems to be very grave danger that participation, particularly in secret meetings, may make the other part of it where we wanted to help you more difficult instead of easier and where there is grave danger of being misunderstood by the Japanese nation I thought it was the part of wisdom for him at the next convenient opportunity to make a public statement that the Kellogg Pact having been finished, he would hold himself in reserve and would not attend any further meetings until or unless he was called for consultation upon some matters to which our treaties related and I did not see how that could possibly embarrass you. My last purpose in the world is to embarrass you. It is the last thing in the world that I want to do—embarrass you in your effort, and I was afraid that his remaining there, particularly in secret meetings, would be of course a source of great embarrassment and great danger. The most important part is the secret meetings. If it is going to be a very great embarrassment for you to have him stay away from public meetings where he can be recognized only as an observer and where everybody knows that he is not pulling wires against Japan, I will reconsider that and think it over. But I do not want him to go to any further secret meetings now that the Kellogg Pact is over.

READING: If you will let him go tomorrow, I quite appreciate your view of course with regard to the other but you see what I am most anxious about is a public discussion of his having been withdrawn from the secret sessions while everyone is following them. What I was suggesting was that if you would allow him to attend, as he has done today the meeting tomorrow, then I would suggest that the difference of one day won't really make a very serious difference. If he does that then after that we will have a public meeting which he attends as only an observer and will continue to attend publicly as auditor and observer. Of course we quite appreciate and understand that you do not wish him to attend any secret meetings but I would suggest that nothing be said about your instructions on these meetings. Of course we shall be bound by them. He would not be called in any further secret meetings, but I am anxious that there should be no comment on it.

SECRETARY: I do not intend to comment on it provided we can get him out of danger. When would the next public meeting take place?

READING: I think it must take place certainly within the next 48 hours. Perhaps less.

SECRETARY: Can you not have it tomorrow? I do not want Gilbert to attend any more secret meetings if possible and if you have got to have him at one—not more than one.

READING: All I ask is that you will be good enough to let him attend the one which is already called for tomorrow.

SECRETARY: Is that a secret meeting?

READING: Yes, that is a secret meeting. What I was suggesting to you is that there would be a public meeting after that and then that he should not attend any more secret meetings at all but would merely attend the public meetings as auditor and observer. If he attends the secret sessions in the morning, it will be only following out what he has done today. If he does not, this will have created a situation which will become most serious. That is the only reason I am calling—just with reference to tomorrow's meeting.

SECRETARY: I do not want to cause that.

READING: I beg you not to withdraw him yet. The effect on the French situation would be more serious even more than on ours but it would be very embarrassing to all. I am trying to explain it as I think I understand the situation that I was describing to you.

SECRETARY: One further thing, Lord Reading, you have got to protect me throughout. If I protect you, you must protect me. When he does attend those public meetings after the Kellogg Pact matter is over and after his interchange of reconciliation with the Japanese is over, he must attend purely as an observer. I think it would make it much easier for us and make our position clear if he took the position

which observers have taken, rather than a seat among the members of the Council.

READING: We have always understood that you know.

SECRETARY: I am not familiar with the physical surroundings in the Council room but the newspapers have represented Gilbert as having been given a seat among the members of the Council and that has been played up everywhere as if he had been made a member of the Council.

READING: It was a distinction most deliberately drawn. He did not sit with members of Council as a member as that would have implied unanimity.

SECRETARY: What I am suggesting now is that the physical surroundings in the room be altered so as to conform to the actual legal facts as to his constitutional attendance.

READING: I see what you mean. That is easily done.

SECRETARY: Just let me get this clear. He has been sitting at the Council table so long as you were considering the Kellogg Pact and so long as he was in the category of the first part of my authority which I gave him. Now that is over and if any more public meetings take place he is merely there as an observer. Can you not do something which will make this physically apparent. Do you understand that?

READING: I don't understand the last part.

SECRETARY: When he was deliberating with you on the Kellogg Pact, you with great formality gave him a position at your own table. I do not understand that the ordinary observers either from our country or other countries who have in the past attended the meetings of the Council have been given such a conspicuous position. I suggest therefore, as soon as the Kellogg Pact, the Pact of Paris, is formally disposed of, that Mr. Gilbert, while he may remain in the room in the public session, shall take the ordinary position or the ordinary chair of an observer.

READING: Yes, I see what you mean.

SECRETARY: That will disarm a great deal of suspicion. It seems a little thing, but the Japanese objection has made everybody think that Gilbert had become a member of the Council. They did not read your decision. They read only the basis of the Japanese objection. That not only reacts badly in Japan but reacts very badly in America and I am trying to kill those two birds with one stone. I am willing to compromise with you in that way for the present and, until further advised Gilbert may go for one more secret meeting. Then he can attend the public meeting where the Japanese statement will be made and his response will be made. That involves his making a little speech. That however will terminate his service under the Pact of Paris and while he need not withdraw altogether from the attendance,

he can then subside back into the position of an observer which is strictly in accordance with the way in which he came in and he will also be in a position where he can follow what you are doing, if you desire that, provided it is in public session.

READING: I want to see if I have it. You would allow him to attend one more secret meeting, and only the one tomorrow; then after that he would attend the public sessions where he is to make his answer and then after that sitting take the position he had the other day not at the council table but as an observer. The only observation upon that which I would like to make is that would it not be sufficient at the meeting, at which statement is made by the Japanese and at which he makes his answer, that he takes no further part at the end of table and that hereafter if you wish it he should not sit at the table but have his chair at the table as an observer. The reason is that I am particularly anxious for the same reason as already explained that he should not have to change his position at the same meeting.

SECRETARY: All right I will accept that.

READING: Then he will withdraw.

SECRETARY: I will accept your suggestion that he retain his position during the ceremony of that public meeting but at the next public meeting he will go to the new position. You understand, I hope, that I have no desire to embarrass you. I am only trying to protect you as well as myself.

READING: Of course I feel the reaction[s] which would take place in America as you have pointed out to me. I am inclined to point out what they have been over here.

SECRETARY: The reactions which have taken place in America have been based upon reactions which have taken place in Japan and I think it would be very dangerous to the business which we all have in view to feed any more fuel to that flame.

READING: We have been deliberating in these secret sessions for we did not want them to be put in a difficult situation publicly. We shall have to have a public meeting and it must take place certainly within 48 hours, where they must state their position in public. This cannot go on forever.

SECRETARY: I understand. My own opinion is that the great effect of the solidarity of all the nations of the world in favor of peace in Manchuria has already been accomplished by our original action.

READING: I do not want to change it I assure you, but over here in Europe your withdrawal would be taken as nothing else but disapproving of what we are doing.

SECRETARY: We certainly do not disapprove and we do not want to be mistaken on that.

READING: There are difficulties in our position here in meeting your views which I would like of course to meet.

SECRETARY: But apart from that I want to follow in with your views. I readily recognize that you are trying to follow in with mine. We will go ahead on that basis.

READING: Mr. Secretary, may I inform Mr. Gilbert or shall he hear it from you.

SECRETARY: Tell him of our conversation but I will follow it up with a cable to him direct.

READING: I am sorry to have troubled you. You understand I had to. If I can be of any use in any way you have only to let me know.

793.94/2336

The Counselor of the British Embassy (Osborne) to the Secretary of State

WASHINGTON, October 19, 1931.

MY DEAR MR. SECRETARY: I telegraphed to Lord Reading in the sense of our conversation on Friday evening the 16th and I have now received a reply from him.

He hopes that his telegram to the Foreign Office, copy of which I enclose³⁴ for your information, will show you that their chief pre-occupation at Geneva has been to do everything possible to fall in with your wishes and as far as possible to remove any difficulties you might have to meet in taking the very important step of allowing an American representative to sit at the Council table. In giving you the above message I am to add that there never was any intention of leaving you to take the sole initiative in invoking the Pact of Paris, that any impression you may have gained to that effect is due to a misunderstanding, and that you can rely on him to maintain the closest possible cooperation with you and with your representative in Geneva.

Believe me [etc.]

D. G. OSBORNE

793.94/2212 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 19, 1931—4 p.m.

[Received 7:25 p.m.]

223. Consulate's 217, October 18, 5 p.m. The concluding paragraphs of the telegram under reference indicated the probable nature of Briand's reply to the latest Japanese note to the Council regarding the participation of the United States. This reply has now been

³⁴ Not printed.

issued in its final form and is found not to differ materially from that which Briand made to the first Japanese note of objection to American participation on legal grounds or from the indications of the reply given in the telegram under reference. The first exchange of letters regarding this point was summarized in the second and third paragraphs of the Consulate's 210, October 16, 10 p.m.

Briand's reply to the second Japanese note states in addition that at the Council meetings of October 15 and 16 he was careful to make it clear that "the object of the proposal laid before the Council was limited, being merely to supplement the arrangements already made to enable the Council to obtain information with greater ease." Legal questions of a general nature to which the Japanese called attention did not arise "and should therefore remain entirely reserved." Furthermore the reply states that Briand also added in the meetings of the Council that "it was not necessary for those questions to be settled before the Council could come to a decision of the proposal submitted to it."

With regard to the reasons why and the conditions under which a representative of the United States was invited to sit at the Council table, the reply refers to Briand's first letter summarized in the Consulate's 210, October 16, 10 p. m.

With respect to a discussion of the legal questions involved the reply states that in view of the foregoing, "no useful purpose would be served by undertaking at the present time a judicial study of problems which, however important and interesting they might be in themselves, do not at the moment arise, though they can be examined later if the members of the League so desire."

The reply then expresses the hope that the Japanese Government will for the reasons explained "agree that such a study would be in any case wholly unrelated to the vote given by the Council on October 15th" and since these texts will convince the Japanese Government that the most serious consideration has been given to the Japanese views and that the Council has been careful to take no action in contradiction to the Covenant.

GILBERT

793.94/2220b : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 19, 1931—6 p. m.

103. My 101, October 19, 1 p. m. Conforming to the understanding which Reading and I reached in the telephone conversation just concluded, I authorize you to sit in the Council's secret session

tomorrow, but not at any other secret sessions; also, to take your seat at the Council table in the public session next succeeding; but thereafter to occupy a seat which ordinarily is assigned to an "observer". As I understand it, the Japanese representative will make a statement at the next public session to explain Japan's objection to United States representation, and in acknowledgment of this statement you will make one. At this session you will keep your seat until the session ends. At later sessions you will take the seat of an "observer".

STIMSON

793.94/2220c: Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 19, 1931—7 p. m.

104. The Department has not received as yet from the French Government the notification regarding the action taken concerning notes to China and Japan to call their attention to obligations under the Kellogg Pact. The American note is being withheld pending receipt of such notification. Kindly bring this to Briand's attention.

STIMSON

793.94/2211: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 19, 1931—7 p. m.

[Received 7:55 p. m.]

224. My 219, October 18, 7 p. m. and 220, October 18, 8 p. m.,⁸⁸ and similar telegrams.

(1) This morning I was informed that for the time being the League would delay acting on the circulation to Council members of "military information" from Manchuria and its subsequent press release. This change in procedure is due to tactical reasons, for it is felt that (a) at this time the constant issuance of such information, which carries implications often unfavorable to the Japanese and occasionally to the Chinese, irritates unnecessarily; and (b) it is more expedient also to hold it in reserve, especially from the Chinese and Japanese, for possible use in the future.

I have arranged with the British and French to obtain direct whatever information they may receive here, and through Drummond,

⁸⁸ Neither printed.

whatever he has from other sources. I will transmit this promptly to you as it comes in; and it will be confidential for the time being, as you will note.

(2) Your 99, October 17, 2 p. m., last paragraph.

Your views expressed in No. 99, particularly paragraphs 3 and 4, have been made known by me to Briand and Reading (Grandi is in Rome temporarily), and they are giving fullest consideration to what you have to say. Respecting information and opinion, I have arranged with them for liaison which is most satisfactory. They most strongly feel the need of keeping you informed fully and currently of all developments in Geneva and also in respect to their policy as it is shaped day by day. I will transmit this as promptly as possible to you. They are looking to you to express your views concerning proposals as they are formulated and questions as they arise, and they realize the very great need for common action so far as it is obtainable.

(3) To help you visualize the situation here, the activities from day to day are substantially as follows: A general policy is discussed and formulated at private meetings of all Council members except the Chinese and Japanese. Then Briand assumes the chief burden of discussing with the Chinese and Japanese representatives here the elements of a project intended to carry out this policy. Briand is assisted in this by Reading and at times by Grandi. Following his conversations with the two parties involved, Briand reports to the next private Council meeting the results, together with suggested modification of the original project as may have seemed desirable in the interval, either to be able as far as possible to meet the views of the Chinese and Japanese or because of a shift in the situation. This procedure goes on until a point is reached which permits the project to be brought up in a public Council meeting with some hope of having it accepted by China and Japan, or when it may appear desirable to hold a public Council meeting for the purpose of acquainting public opinion with what is transpiring.

Today Reading stated to me that a perfect solution could scarcely be looked for in view of the Japanese position and of the whole situation; compromises undoubtedly would be necessary, but everything possible was being done.

(4) This morning Reading told me that in private conversations the Japanese are attempting to create the impression in Geneva that you appreciate the Manchurian situation better than does Geneva and that for this reason you do not particularly stress the evacuation of Japanese troops. In reporting this, I am endeavoring to convey Reading's meaning as closely as possible.

GILBERT

793.94/2213 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, October 20, 1931—noon.

[Received October 20—4:07 a. m.]

189. Department's 181, October 3, 2 p. m. I have been informed orally by the Foreign Office that the wireless station at Mukden is expected to be in operation some time this week, with operators supplied by South Manchuria Railway.

Repeated to Peiping.

NEVILLE

793.94/2214 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

Geneva, October 20, 1931—noon.

[Received October 20—9:17 a. m.]

226. My 212, October 17, 9 p. m. I am informed notification of joint action of invoking the Pact of Paris on the part of France, Great Britain and Italy has now been sent to you by the French accompanied by an "explanation" of delay. I am not informed what their explanation will be. I had a firm understanding with the French, British and Italians in line with paragraph 4 of my telegram under reference at the hour I sent that telegram.

Immediately following your telling me on the telephone yesterday that you had not received such a notification I took the matter up with the British. They told me that they had fully understood that the French would notify Washington simultaneously with the notification being sent to the other signatories, as had been arranged between us. The British immediately took this matter up with the French. I went to the British first in this in order not to have a direct discussion with the French over what Reading told me he knew to be an error or misunderstanding on the part of the French.

GILBERT

793.94/2250

*Statement by the French Minister for Foreign Affairs (Briand)*⁸⁶

[Translation]

The French Government has followed anxiously the course of the events in Manchuria which, since September 18, have created a disturbing situation between China and Japan.

⁸⁶ Handed to the Under Secretary of State by the Counselor of the French Embassy on October 20, 1931.

The Council of the League of Nations has already taken cognizance of the matter and is actively engaged in adjusting it: my Government is associated with these endeavors.

It esteems it its duty, moreover, to call the attention of the Chinese and Japanese Governments, signatories with it of the Pact for the Renunciation of War of August 27, 1928, to the provisions of the said Pact, and particularly to article 2, according to which:

"The High Contracting Parties agree that the settlement or solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

The public opinion of the whole world expects China and Japan to observe the engagements thus contracted. My Government has confidence that this hope will not be disappointed and that the two Governments involved, conscious of the meaning of these solemn engagements and the obligations which are imposed on them with regard to the other signatories of the Pact, will carefully refrain from any initiative which may compromise the success of the efforts already undertaken to assure the settlement by pacific means of the dispute which has arisen between them.

ARISTIDE BRIAND

793.94/2211 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 20, 1931—noon.

107. Your 224, October 19, 7 p. m.

(1) This gives me exactly the sort of information I wish. I hope you can continue sending it currently as promptly as possible without an undue burden being placed upon your work.

(2) Attempts such as are described in your paragraph 4 must be anticipated from both China and Japan. Assurance may be given Briand and his associates by you that such suggestions do not impress this Government and that I am perfectly content with the progress of the negotiations and with the manner they are being carried on. I will not permit any impression of divided counsel to gain support here.

(3) I think the best arrangement possible for meeting the exigencies of the situation is the one for your own representation, to which I agreed with Reading in our telephone conversation and which is embodied in my 103, October 19, 6 p. m., to you. The chief criticisms current in Washington and Tokyo will be met by your abstaining from

attendance at secret sessions and by your assuming the physical position of observer at public meetings when Kellogg Pact matters are not being considered. The situation also will be ameliorated by Japan's withdrawing its objection, a fact which was brought to me following my talk with Reading and which has bettered the situation in the American press considerably.

STIMSON

793.94/2246 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, October 20, 1931—noon.
[Received October 21—3:40 a. m.⁸⁷]

My October 18, 10 a. m.

1. Following is identic text of telegram which I, with the British, French and German Ministers, am sending reporting conversation yesterday with President Chiang Kai-shek.

2. "President invited me and my French, American [*British*] and German colleagues to meet him again on October 19. In course of general discussion he invited our observations on a proposal which he understood to be under consideration at Geneva that Council should fix a time limit for withdrawal of Japanese troops, that within this time limit negotiations without observers regarding details of evacuation should be opened between Chinese and Japanese representatives, and that neutral observers should be attached to Chinese side only to watch transfer. In reply to our inquiries he said that without observers present at these evacuation negotiations such an arrangement would not satisfy China as there would be no guarantee that withdrawal would be completed in time specified, and he referred to failure of Japanese to withdraw by October 14 as promised to Council on September 30. He requested us to impress following three points on our respective Governments.

(1) That everything possible should be done to expedite withdrawal, further delay in which was fraught with grave dangers;

(2) Neutral observers should be present to watch arrangements for withdrawal and after; and

(3) China trusts Council will not adjourn until withdrawal has been completed, as Japan is playing for adjournment *re infecta* as had happened on September 30.

He also emphasized with usual arguments, difficulties and dangers with which Chinese Government would be faced in regard to internal situation, especially from the Left, if Council failed to find a solution."

3. [Paraphrase.] Pursuant to action taken at Geneva and acting under instructions from their Governments, my British, French, and

⁸⁷ Telegram in three sections.

German colleagues yesterday presented identic notes to the Chinese Government inviting its attention to article II of the Kellogg-Briand Pact.

4. Today the situation may be summarized thus: The Japanese effectively occupy South Manchuria. In this area they have succeeded in paralyzing the Chinese administration. They have carried out a systematic campaign, including the bombing of Chinchow, calculated to destroy the confidence of the people in this area in the Chinese administration. The reports from Hanson and Salisbury and those to the British Minister from his observers in Manchuria indicate that the Japanese occupation forces have no present intention of withdrawing from their present positions. Thus far the Chinese have shown an admirable control of their people who are getting increasingly inflamed against the Japanese. The latter state they will not alter their present positions until the Chinese have started negotiations and afforded adequate guarantees. In short, the Japanese intention apparently is to hold South Manchuria in pledge until the Chinese are obliged to negotiate for its restoration.

5. The Chinese, on the other hand, insist they cannot negotiate with the Japanese so long as they occupy areas outside those previously held.

6. To my British and French colleagues and to myself conditions seem to be nearing a crisis. We feel the situation is urgent and some action is necessary to enable both sides without either losing face to work out a solution of their troubles. With conditions as described above, we find it extremely difficult, however, to determine what suggestions to make. The Japanese seem to have so worked themselves up that the mere suggestion of their withdrawing their forces preparatory to negotiations is taken by them as an insult and as an undue interference in Japan's domestic policies.

7. Suggesting to the Chinese the burying of their pride and the beginning of negotiations while Japan still occupies Chinese territory, we feel, would amount to telling them they must accept whatever terms the Japanese wish to impose upon them.

8. To me it has seemed that the best thing all around would be if both parties might be persuaded to propose discussing the matter under the Nine-Power Treaty relating to principles and policies, article 7. There would certainly seem to be no question of a Japanese loss of face should this convention be availed of, since it does not call for anything new in the way of a set-up. In my opinion, the only question in article 7 is the interpretation of the phrase "nations concerned," which would appear to limit discussion to the two countries involved, whereas in the present situation it seems desirable for all

parties to the Washington treaty to meet for the purpose of facilitating a settlement.

9. President Chiang Kai-shek is showing fairly frequently a desire to consult with us, and we do not see any harm in meeting him. Rather we believe the meetings offer us an opportunity here for good counsel. [End paraphrase.]

JOHNSON

793.94/2235½

*Memorandum of Trans-Atlantic Telephone Conversation*⁸⁸

SECRETARY: This is Secretary Stimson. What is it?

GILBERT: I have had your telegram⁸⁹ sent me after your conversation with Lord Reading⁹⁰ and I believe I understand the situation perfectly. They have been discussing this with me all day and I believe you will agree with me that our position in this matter should be in the general terms of your decision. They suggest that in the matter of method, however, we should go to any extreme to satisfy them. I mean in the matter of method.

SECRETARY: I think we have worked out a very satisfactory method in that telegram.

GILBERT: Yes, sir. But there are one or two details.

SECRETARY: I thought we had gone into detail sufficiently. If you have anything further regarding details let me know.

(Break in connection)

SECRETARY: What is it? What are those details?

GILBERT: You sent me a statement which I might make, you know, at my last appearance. Briand is asking that he might make the statement respecting why I will not be there any more and he feels that he should make that in view of his having made the original statement. Is that satisfactory to you?

SECRETARY: All right. I think so. I think he should let you see in advance what he is going to say. I think our interests are parallel there.

GILBERT: He is going to say something like the following: That certain objections were raised perhaps and were entirely on juridical grounds. Possibly some misunderstanding arose to the effect that I was taking part actively in League matters, which was not true; that in order to allay such misunderstandings——. That is about the line he will take. In order to protect his situation in the League he should be able to do that.

⁸⁸ Between Mr. Stimson in Washington and Mr. Gilbert in Geneva, October 20, 1931, 12:30 p. m.

⁸⁹ No. 103, October 19, 6 p. m., p. 259.

⁹⁰ See memorandum of trans-Atlantic telephone conversation, p. 248.

SECRETARY: Absolutely. That is all right. I want him to understand like the others that the position I am taking is not in the least based upon any desire to change my cooperation but it is to make it permanent for the future. We must be able to hold the step we have taken which is based upon and embodied in the instructions which I gave you on the day you went in and there must be no failure of this conference. The danger was the secret meetings. I could see great probability of danger in the misunderstanding which might occur in Japan. They did not know the extent of your participation during the secret meetings and therefore that was the most important thing. I do not want you to go to any more secret meetings but I have no objection to your going to the open meetings provided you take the attitude of observer only—take the position of observer whenever the Kellogg Pact is not under discussion. You understand that.

GILBERT: Yes, sir. Those are the terms of your telegram which is very clear and precise. As I said in the beginning I must really tell you that it caused the most tremendous excitement here when I told it to Reading, Drummond and Briand. I really feel it my duty to give you the picture. Drummond almost broke down and of course I feel it my duty to tell you what Briand said. Would you like to know.

SECRETARY: Certainly.

GILBERT: Briand said in the first place he was very deeply concerned. He said in the first place that Japan would feel it to be a great diplomatic victory which they had achieved in response to representations which they had made in Washington. The second thing he said was that it would give the Japanese a new lease on life here and so strengthen their position that the efforts of the Council might prove ineffectual. The third thing he said was that he was even more deeply concerned over what might result at home and internationally. The other views Reading expressed to you have been transmitted to Lindsay.⁹¹

SECRETARY: I have already talked to Lindsay.

GILBERT: Briand said it placed him in an exceedingly difficult position as President of the Council. He spoke of possible unfortunate repercussions in respect to Laval's visit and its objects; he feels it might mean a failure here which meant a failure in February. That is exactly the expression he used; and I am just reporting to you.

SECRETARY: I have envisaged all of those things and I am obliged to follow my own judgment on them after giving them careful con-

⁹¹ Sir Ronald Lindsay, British Ambassador at Washington.

sideration. Frankly, I do not see how all of those results can happen from that change in the secret meetings.

GILBERT: He thinks it would be well that I ask you in case that they do not any longer invite me to the secret meetings that as a concession I might remain in the public meetings as I have up to now, until they end. Adjournment is expected in a very few days. They are naturally pressing that request.

SECRETARY: Do not you understand you have permission now to sit in the public meetings?

GILBERT: But only for the first one?

SECRETARY: My understanding with Reading was that you could continue in the public meetings provided you changed your seat.

GILBERT: They asked that there be no public comment about my changing my seat.

SECRETARY: There need not be any comment.

GILBERT: It is hard for you to realize the drama which has been built up around my position here.

SECRETARY: They ought not to have put you in that seat. They ought not to have staged up that point.

GILBERT: It was nothing that I did, sir.

SECRETARY: I know that.

GILBERT: I have been very careful about publicity. I have had to have my picture taken once or twice coming out of the building.

SECRETARY: There is not the slightest criticism of you and I do not criticize them.

GILBERT: I am always afraid you will confuse their views with mine. There probably will be only one more public meeting and two at the most. They felt that if I shifted my seat it would cause the press to come out with endless interpretations. I am just presenting their views—what they feel.

SECRETARY: I do not see how that could arise.

GILBERT: Briand, after expressing himself as I have told you, then said, "Can you make this one request?" I said, "I will most certainly make it." I had to say that. They will not invite me to any more secret meetings except within the limits of your telegram, and said my changing my seat would be passed all over Europe by the press saying: "What is the significance of this?" and their making all kinds of interpretations. I mentioned this point in the end of my telegram. I would like to read the last paragraph. "I feel that I should tell you that there is constantly being brought to my attention by members of the Council and by representatives of the American press here that the Japanese are with no small success bending every effort to give the appearance that there is a marked division of policy between Washington and Geneva." This will be the Japanese position. The Amer-

ican press came to me today and said that you felt evacuation was not necessary. I said, "Where do you get this sort of thing?" They replied, "Well you know the Japanese pass it out."

SECRETARY: As a matter of fact the Japanese have made no representations to us about your seat there or about your position. You must keep your mind off that. They have made no representations whatever. Their conduct has been perfectly all right. There has been no criticism here and you can take that flat and we have not in any way yielded to any Japanese criticism here. There has not been any made.

GILBERT: I am sure that that would have been the case. I wanted to tell you just what is being said here. The American press surrounded me today and all said the same thing.

SECRETARY: You cannot run a great negotiation like this with such undue attention to the press.

GILBERT: I know that, but I fear the Japanese are actually doing it.

SECRETARY: What you have got to do is to go ahead and insist on it and when the time comes we will back you up. I have just had a talk with the British Ambassador for the benefit of Lord Reading, to reassure him on the whole question, and I believe he appreciates our position better than you can appreciate it in Geneva both with reference to Tokyo and this country. I said we were doing it that we might hold the ground we have gained so that it might not be lost.

GILBERT: In response to Mr. Briand's question, if they ask can I tell them whether I can sit in the seat I have occupied in the public meetings, provided they do not invite me to the private meetings? They do not believe there will be more than two more public meetings.

SECRETARY: Let me ask you this question. Are there any other observers there?

GILBERT: No, sir. No other nations have any observers.

SECRETARY: Are there any seats there recognized as observer's seats?

GILBERT: They sit in the audience normally. Of course, something might be fixed up artificially. They want to avoid newspaper comment on the change of seat. I will of course not go to any secret meetings.

SECRETARY: When does your next public meeting come?

GILBERT: It is not scheduled yet. It has been put off from day to day until they reached—

SECRETARY: Reading promised me it would be held within forty-eight hours.

GILBERT: They do not want to have a public meeting until—you see they are trying to get something to bring into the public meeting to make it a success and naturally they cannot make commitments. When they meet before the public they wish to make it look successful.

SECRETARY: My impression is that you are running more of a risk to postpone that meeting and to have other secret meetings in the meanwhile, to which you will not be invited, than you would to have that meeting and wind up by having announced openly the withdrawal of the Japanese objection.

GILBERT: I do not know what they will do. I have to express to you what Mr. Briand said. He talked about it a great deal and after a long consultation with Drummond and with Reading made that request.

SECRETARY: It is now understood you will go to no more secret meetings.

GILBERT: Except the first one, if there is one.

SECRETARY: Secret meetings?

GILBERT: I will go to no more secret meetings?

SECRETARY: You have had your last one now.

GILBERT: They did not have a secret meeting today. They had none. It says in your telegram that I am authorized to sit in today's secret session, but they did not have one.

SECRETARY: So that you will go to no other secret meetings now at all. They are agreeable to that? They understand that?

GILBERT: My understanding with Reading was that I would go to the next one, probably tomorrow, but I think there will be no difficulty about my not going to any more secret meetings.

SECRETARY: But don't you see, the longer they put it off, the longer they hang in doubt.

GILBERT: I will go to no more secret meetings.

SECRETARY: They have lost their chance by not holding the one today.

SECRETARY: You can go to the first open meeting and sit at a regular seat, and then I will inform you about what happens after that.

GILBERT: There is one suggestion I feel I should make to you. Under the provision that we do everything possible to help them, this suggestion was made: I might be under orders to return to Washington for consultation in case this went on much longer, that is before the next time I sit at a meeting it would be announced that I would return to Washington for consultation.

SECRETARY: I can do that, if they would rather have you go. But I may be able to let you go on in the public meetings.

GILBERT: Mr. Everett⁹² is exceedingly capable. He is able to carry this forward. I can recommend him fully. They said that it seemed desirable I might be ordered to Washington. I would like some kind of an authorization in case it suddenly came up. I would withdraw from the table. At the same time the Japanese would have the impres-

⁹² Curtis T. Everett, Consul at Geneva.

sion that my going to Washington kept a very strong contact on information with the League. I thought that if they felt that way you might be able to approve. I can hardly describe to you how they talked this morning. It was very trying.

SECRETARY: I see the point.

GILBERT: May I then have your authority, if it reaches that point and Briand asks it, to take that step?

SECRETARY: I will telegraph you on that. I think I can probably meet that.

GILBERT: You see my point is simply trying to meet them.

SECRETARY: I have nothing but satisfaction for your action, so do not worry about that.

GILBERT: From a personal point of view, any kind of newspaper comment here will make future work in Geneva a little more difficult. I hope it will be done perfectly smoothly.

SECRETARY: I think they make a great deal of unnecessary stress out of a matter which can be easily cared for in other ways.

GILBERT: I have to give Briand and Lord Reading the benefit of their sincerity.

SECRETARY: I know. Before we get through with this situation they will have no doubt about our cooperation and the Japanese will have no doubt about our cooperation and the world will have no doubt of our cooperation, but they must not try to put me in a position where I have not got a secure footing. I think they are unduly excited about what is a very simple matter.

GILBERT: My being ordered away would not cost us anything.

SECRETARY: I think they have been very hysterical about it but I do not intend to criticize them because I know they are in a difficult position. You are to go to no more private meetings, but you can go to the first public meeting and take your regular seat, and about your seat in subsequent public meetings I will let you know after I have time to reflect over it.

GILBERT: About the other matter. Could I have some kind of general authority to leave Geneva?

SECRETARY: Yes. You can have that. But I do not want you to go. I hope it can be settled the other way.

GILBERT: They talked about that so strongly. If you were here you would understand. I have a telegram—

SECRETARY: I am very busy. I am getting ready for the Laval visit.

GILBERT: I must tell you the very latest situation in Manchuria. Would you like to have that read to a stenographer?

SECRETARY: She is already taking down everything we say. Go ahead.

GILBERT: I am reporting on meetings of the Council as they occur. That, by no means, however, completes the picture of what is taking place here. It is not expedient to bring forward in the Council which has too large a membership for that purpose, the more important developments. These lie in direct conversations between Briand, Reading, Drummond and Grandi, when he is present, and the Chinese and Japanese representatives, but most of the problem seems to be that Japan is standing on two demands. Safety for Japanese lives and property and more general settlement of questions between China and Japan in Manchuria including in particular, questions relating to the South Manchuria Railway. Japan's position is that the latter does not involve new demands. In other words, it is not in addition to those embraced in the Council resolution of September 30 which was intended by Japan to mean security in a general sense. The interpretation of security in the September 30th resolution has already long been understood to mean immediate safety for Japanese life and property incident to the evacuation. There is a feeling here, however, which I believe I am interpreting correctly, that the Japanese will insist on their objective respecting these general demands before they retire or at least before they will agree to retire. I understand they have made known these demands to Reading, Drummond, and Briand but that the latter are, for reasons which seem to be compelling, keeping this secret at the present time. Their efforts were in the direction of adjusting these demands to a possible Chinese acceptance. If this can be accomplished the problem regarding Japanese withdrawals and Chinese reoccupation can be easily resolved. Reading and Drummond have told me that they did not regard the Japanese demand as particularly exacting and they were hopeful of an adjustment with the Chinese. The Japanese contended that should an agreement be reached with the Chinese prior to evacuation for undertakings during and subsequent to evacuation, the Chinese might not follow out their undertakings in the premises. In reply, the Japanese were informed that these were commitments on the part of China; and that if Japan fulfilled her commitments and China did not, the role of the two disputants would be reversed and Japan would be in the position of a plaintiff. With respect to the negotiations, indicated above, which took place with the Japanese, I have been informed by Drummond that the following was brought out. Drummond informed Sawada ⁹⁴ that with respect to the Japanese demand[s] inasmuch as they have been given to him in the strictest confidence, he was unable to divulge them. They could not, therefore, be used as a basis for private negotiations. Second: Drummond told Sawada that in order that this

⁹⁴ Setsuzo Sawada, Japanese delegate to League of Nations Assembly in 1931, with rank of Minister.

information could be put to a useful purpose it was important that it should be communicated to the members of the Council and even made public.

Such action might strengthen the Japanese case. Moreover, the Chinese might be able at once to accept and if this took place the whole problem would be easier. Sawada replied that he could not express any opinion on this. He would, however, suggest it at once to Tokyo.

Does that give you some conception of the picture?

SECRETARY: Yes, go on.

[GILBERT:] In other words, they intimate to me that these demands did not seem to be something that could not be gotten around. The Japanese were given to understand that these demands had the appearance of something new. When they were asked, "You are backing away from your September 30th resolution?" They said, "Not at all; we must have security." When told that security was only supposed to be in connection with evacuation, the Japanese said they required security in a more general sense, and had always meant that.

SECRETARY: Don't go into that. That is a matter for the Council to iron out there. I am familiar with everything you have said except for the fact that it is now under discussion. I know of those two points because they have been before me for some weeks, and I have formed the same impression of the feasibility of the Japanese demands.

GILBERT: May I ask one direct question? Do you know the exact demands?

SECRETARY: I think I do. Of course, I can not tell until I compare them with what you have. But I have had in my possession what the Japanese say are their ultimate demands, for some time.⁹⁵ That is confidential to you and the matter is that it seems to me that that is a matter which is well within the bounds of negotiation and compromise.

GILBERT: That is the way they feel here.

SECRETARY: That is the way they ought to settle it.

GILBERT: The Japanese still insist that this can not be made public and they will not come out in the open and state the limit of what they want. In that way they do not like to leave it to direct negotiations between the Chinese and Japanese, and have the Japanese make excessive demands which might bring on war with China. They feel that the Japanese should commit themselves in public to do something definite.

⁹⁵ See memorandum by the Under Secretary of State, October 14, 1931, *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 24 (793.94/2175).

SECRETARY: Can't they commit themselves? Would it not serve the same purpose if the Japanese committed themselves in private to those demands in the Council? But the Council must remember that if there is one thing an Oriental negotiator dislikes to do it is to make his demands public, and they do not care at all to negotiate in public. The Council will have to find some way of permitting them to negotiate their own way and yet protect the other fellow against oppression.

GILBERT: I see your point. That is very helpful. I consider that this conversation will not make a cable necessary.

SECRETARY: Send your cable just the same. I have just sent you a telegram⁶⁶ in answer to your cable I received this morning reporting on the situation and I have just said the same thing to you. I have commented on the facts you gave me in that cable and I have asked you to send more cables like it and I will comment on those. We have been talking long enough on this now. You go ahead and send that cable and keep me informed up to date as rapidly as you can on everything that takes place and I will answer as fast as I can.

GILBERT: I am doing that to the utmost of my ability.

SECRETARY: It meets my full approval and I will try to get you my comments back as soon as your reports come in.

GILBERT: You do not wish a cable on this?

SECRETARY: I do wish it sent me. That would be helpful.

GILBERT: I think your suggestion about Orientals working in private will probably interest them very much.

SECRETARY: You do not have to code your own telegrams do you?

GILBERT: No, sir.

SECRETARY: You have someone else to do that?

GILBERT: We have three men who have been coding from two o'clock in the morning until six o'clock at night.

SECRETARY: I will see if I can get you any further help. I do not want you to have to do it yourself.

GILBERT: There are a great number of telegrams to go out in these confidential codes and sometimes it takes two or three hours for a couple of pages.

SECRETARY: You need not send that one then if it is going to throw that extra burden on you. The stenographer probably got it. This conversation has come in very clearly.

GILBERT: Lord Reading said that yesterday it was very bad. Will I hear from you on that other point? May I not sit at the table a second time, if necessary?

SECRETARY: You can sit there the first time. I am going to telegraph you about the second time.

⁶⁶ See telegram No. 107, October 20, noon, to the Consul at Geneva, p. 263.

GILBERT: About my coming to Washington, have I that permission?

SECRETARY: You have permission in case it becomes material.

GILBERT: Otherwise, if Briand says I wish that you would do this, as it would help me enormously, I will say yes.

793.94/2236a : Telegram

The Secretary of State to the Minister in China (Johnson) ⁹⁷

WASHINGTON, October 20, 1931—2 p. m.

388. Please deliver to the Acting Minister for Foreign Affairs immediately, as a note, the text which follows. Inform him that an identical note is being communicated by the American Ambassador to Japan to the Japanese Minister for Foreign Affairs.

Text:

"The Government and people of the United States have observed with concern the events of the last month in Manchuria. When the difference between China and Japan came to a head on September 19th one of the parties to the dispute referred the matter to the League of Nations and since that time the American Government by representation[s] through diplomatic channels, has steadily cooperated with the League in its efforts to secure a peaceful settlement. A threat of war, wherever it may arise, is of profound concern to the whole world and for this reason the American Government, like other Governments, was constrained to call to the attention of both disputants the serious dangers involved in the present situation.

This Government now desires, as do other signatories of the Treaty for the Renunciation of War, particularly to call to the attention of the Chinese and the Japanese Governments the obligations which they voluntarily assumed when they became parties to that Treaty, especially the obligations of Article II, which reads:

"The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

The American Government takes this occasion again to express its earnest hope that China and Japan will refrain from any measures which might lead to war and that they will find it possible in the near future to agree upon a method for resolving by peaceful means, in accordance with their promises and in keeping with the confident expectations of public opinion throughout the world, the issues over which they are at present in controversy."

STIMSON

⁹⁷ The same, *mutatis mutandis*, to the Chargé in Japan as Department's No. 200, October 20, 1931, 2 p. m., *Foreign Relations*, Japan, 1931-1941, vol. I, p. 27.

793.94/2255a : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

WASHINGTON, October 20, 1931—5 p. m.

109. 1. Referring to our telephone conversation of this morning, I authorize you to continue sitting in the open meetings of the Council and in the seat at the table which has been assigned you. It is my understanding that you will attend no more secret meetings and that at the public meetings your role will be strictly that of an observer.

2. I shall study the text of the telegram which you read me in lieu of cabling, when the stenographic record becomes available to me.

STIMSON

793.94/2255b : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

WASHINGTON, October 20, 1931—7 p. m.

111. Department appreciates the pressure under which you and your staff are laboring, but suggests that in telephoning to the Secretary you confine the calls and the subject matter to most urgent matters only, avoid matters which can await treatment by exchange of cables, and make your statements as concise as possible. You will realize that it is desirable in connection with most questions of policy to allow more time for consideration than is possible in the course of the give-and-take of a telephone conversation and that the Secretary does not desire to have to make comments or commitments with regard to such matters on the basis of and during their oral communication to him.

STIMSON

793.94/2236 : Telegram

*The Consul at Geneva (Gilbert) to the Secretary of State*GENEVA, October 20, 1931—9 a. m. [*p. m.*?][Received 9:22 p. m.⁹⁸]

232. Consulate's 221, October 19, 9 p. m. [*a. m.*] No public session of the Council was held yesterday but there was a private session at 10:30 a. m., without the presence of the Chinese and Japanese representatives. I was in attendance at this session.

The President first explained the reasons for not holding a public meeting by stating that news has been received concerning a lessening of the tension in Manchuria and of a slight abatement of the excitement in China as a whole; that in view of this apparent amelioration of the situation it would be wiser to allow this *détente* to operate

⁹⁸ Telegram in three sections.

further in a natural manner rather than to press developments forward in a public session which might cause an unfavorable reaction. As concrete evidence of this lessening of the tension in Manchuria he referred to information just received that the Mukden-Hailungcheng Railway had resumed operations through an administrative arrangement between the Chinese and Japanese local authorities. He felt that this action was probably not an isolated and totally undirected incident but perhaps was the result of some more or less definite trend operating behind the scenes. Since this movement was in a favorable direction he considered it advisable to give it further time for development and felt that this moment was opportune for continuing the negotiations between himself and the Chinese and Japanese representatives. This is the plan which Briand is following today and the date of convening the next meeting of the Council will depend upon developments.

After this procedure was decided upon the Council next examined the positions of the Chinese and Japanese respectively as they now stand insofar as known.

[Paraphrase.] A summary was read by Briand of an *aide-mémoire* which Sze handed him on October 18 in explanation of the Chinese position. The general tenor of the Chinese points is indicated as follows:

1. In regard to the questions of Briand concerning the Chinese Government's willingness to begin negotiations with the Japanese after they had substantially withdrawn their troops and indicated they would complete such withdrawal (see my 213, October 17, midnight, for draft resolution's text) the Chinese *aide-mémoire* presented points as follows:

(a) For the sake of reassuring Chinese public opinion, the session of the Council should not be terminated formally but merely adjourned pending completion of Japanese evacuation, and the Council President should closely follow events in liaison with the League's Secretary-General.

(b) The Chinese Government accepts the suggestion for neutral officers and civilians to be attached as observers to Chinese troops when taking over areas evacuated by the Japanese, but it feels that there should be added a League commission of neutral observers to supervise in Manchuria both evacuation and reoccupation; however, in a spirit of conciliation, China would be prepared to modify this proposal by introducing it as a corollary to (1) the Japanese proposal and the Council's September 30 resolution concerning the communication of information by neutral persons on the spot, and (2) the attaching of neutral observers to Chinese troops who take over the evacuated areas. [End paraphrase.]

(c) Chinese opinion is passively unanimous in a determination not to negotiate under the pressure of military occupation. Only after assurance of the loyalty and effectiveness of Japanese withdrawal and the certainty of the time limit which might be agreed upon could Chinese apprehensions be allayed and thus permit an approach to the other problems in a tranquil frame of mind.

2. Linking up the foregoing immediate question of the withdrawal of Japanese troops with the problem of a general settlement after the completion of the withdrawal, the remaining portions of the *aide-mémoire* briefly summarized are as follows:

(a) The League must not become indifferent to the problem involved in the settlement of the Japanese claims in Manchuria. The appearance of deserting China and abandoning her to "direct negotiations" with Japan might have the gravest consequences on the internal situation in China.

(b) No departure should be allowed from the principle of equal opportunity set forth in the Nine-Power Pact and from the rights of the parties under the Covenant. This principle is of interest not only to China but to the powers.

(c) In order not to leave the impression of abandoning China and leaving her face to face with Japan, the Council and the United States jointly should offer to appoint neutral members or "referees" to assist the parties to arrive at a settlement as was done at the Washington Conference.

(d) It should be made clear at the outset that the scope and nature of the ensuing conversations should be limited by the necessity of respecting the situation established by the treaties, the resolutions of the Washington Conference and of reserving the rights of the parties under the Covenant.

(e) Suggests seizing this opportunity to lay the foundations of enduring peace and amity between China and Japan by the establishment of a permanent board of conciliation and arbitration, on such lines proposed for such bodies in the "general act",⁹⁹ to facilitate the solution, apart from present controversies, of Sino-Japanese problems as a whole.

[Paraphrase.] The foregoing Chinese position was not discussed by the Council at great length. The greatest difficulty was felt to lie in obtaining from Japan sufficient concessions to meet China's minimum demands. It was thought that these demands might be made to harmonize with the September 30 resolution of the Council. If, on the other hand, the principles as set forth in this resolution should be abandoned to meet the demands of Japan, this probably would mean China would go to war.

The position of Japan, as brought out in the meeting of the Council and in subsequent private conversations, is not so well defined, but the known chief elements are as follows:

1. It is maintained by Japan that the security of the lives and property of its nationals cannot be assured without a complete *détente* taking place between China and Japan.

2. To obtain this, the two Governments must first agree upon certain points based upon respect for existing treaties.

⁹⁹ International convention signed at The Hague, October 18, 1907, *Foreign Relations*, 1907, pt. 2, p. 1181.

3. As soon as an agreement is reached on these points, normal relations can, the Japanese assert, be resumed, with evacuation taking place.

4. The above, representing a new element, is not contained in Japanese demands hitherto.

5. This new element merely serves as an apparent reinforcement of their former position regarding direct negotiations.

6. However, it was pointed out that the Council might be the negotiator between the two Governments concerning these points, thereby satisfying Chinese opposition to negotiating directly. [End paraphrase.]

7. Of a more reassuring nature is the fact that the Japanese reiterate their denial of any territorial ambitions in Manchuria.

8. With regard to the Chinese offer to allow neutral officers and civilians to act as observers during the evacuation and reoccupation to watch over the security of Japanese nationals, the Japanese representative has implied that the responsibility for their security should rest on the powers whose nationals act in this capacity. This it was pointed out in the Council discussion is impossible. To do this would mean the stationing of foreign troops in Manchuria and this would be objectionable to the Japanese themselves. The Japanese position on this point is not clear.

9. [Paraphrase.] It is felt by some Council members that the Japanese position is not clear enough on other points to enable intelligent negotiations, and they suggest the necessity of inducing the Japanese to make a statement of their exact meaning.

During the course of the discussion in the Council, reference was made to certain misunderstandings having arisen in Tokyo regarding what is transpiring here. It is implied that the Japanese representative here perhaps is not keeping his home Government informed accurately. The suggestion was made that the powers, through communications to their Tokyo Embassies, should clarify the situation there. Action along this line has already been taken by Great Britain.

Reference was made in this connection to the very efficacious support of the League's efforts respecting this whole problem if the United States should independently act through diplomatic channels. [End paraphrase.]

GILBERT

793.94/2249 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, October 21, 1931—1 p. m.

[Received October 21—3:52 a. m.]

192. Embassy's 191, October 21, 11 a. m.¹ I delivered the note² this morning in person. The Minister for Foreign affairs read it and

¹ Not printed.

² See footnote 97, p. 275.

said that its tone was sympathetic and he desired once again to express his appreciation [of] the considerate attitude of the United States. He said that conditions in Manchuria seemed to be improving and that he was hopeful about it. He insisted that there was no likelihood of war and that Japan was prepared to negotiate with China at any time.

It is difficult to realize the determination of the Japanese public to have no interference by the parties in Manchuria. No government would dare to admit it unless well camouflaged. Shidehara has been put to great straits to prove to the powers that there was no war and no danger of one and to the Japanese public that their rights were being adequately protected and that there has been no outside interference.

NEVILLE

793.94/2290a : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, October 21, 1931—1 p. m.

96. For the Minister: There seems to have been considerable misunderstanding respecting the arrangements for the attendance at League of Nations Council meetings of the American Consul at Geneva.

Here are the facts of the case: This Government was invited by the Council to send a representative to sit at Council meetings, without a vote, in order to facilitate the consideration of ways and means to cooperate in obtaining an objective common to this Government and the Council, namely, the prevention of a war.

The American Consul at Geneva was instructed by this Government to inform the Council of this Government's acceptance and of its instruction to him to act as its representative in this connection. He was instructed to attend Council meetings as an observer, to participate in discussion relating solely to one question, namely, possible action under the Kellogg Pact, and of course he was to have no vote. The Consul was told not to take an initiative, nor to press for the Pact's invocation, and he was to refrain scrupulously from taking part in discussing measures which might be under the Council's consideration under and in relation to League Covenant provisions or those of any instrument other than the Kellogg Pact. He was informed that this Government had not taken nor would take sides in the Manchurian dispute and was not undertaking to make suggestions regarding the terms of settlement, though this Government believed such settlement should be achieved through direct negotiations between China and Japan. The Consul was told that an attempt would not be made here to prompt the Pact signatories to take action and that, should action be

taken along this line, it is our opinion that the initiative might best be left to the League of Nations or to members of it. He has understood all of this and has in no way acted beyond his instructions.

In conversing with the Foreign Office you may clarify this Government's attitude in this whole matter, in the event it is not understood already. In the first place, this Government is interested in preventing war anywhere in the world, of course including Manchuria. This Government believes a solution of the disputed matters is possible and should be reached by process of negotiation between the two parties, and it feels that it has, with the rest of the world, the right, prior to such negotiations, to urge upon both China and Japan that they refrain from all save peaceful measures. Therefore, the Foreign Office should understand that the steps this Government has taken and is taking are directed toward preventing war and have not been directed to the passing of judgment respecting the dispute's merits or to the formulating of conclusions regarding terms, agreement upon which should be arrived at in the process of and as a result of negotiation.

The Department is of opinion that in their desire to stand together to maintain peace the nations have demonstrated their solidarity, even in the face of a major crisis; that the usefulness has been shown of the established peace machinery of the world; that this machinery has been reinforced; and that the object should be the maintenance of this situation and the insurance that a settlement will be reached by negotiations between China and Japan without further unfortunate incidents.

Repeat as Department's No. 202 to the Embassy in Japan for the information and guidance of the Chargé.

STIMSON

793.94/2255 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, October 21, 1931—2 p. m.

[Received October 21—10:17 a. m.]

Continuing my October 13, 9 a. m.³ regarding preservation of order in the International Settlement and the display by Japanese of military force, I submit the following:

Conditions continue tense but while potentially they are not improved, actually greater confidence is felt in ability of Shanghai Municipal Council to maintain order. Sunday the 18th was noteworthy because of numerous attacks on Japanese by unruly students and mobs particularly in Japanese mill district in vicinity of Ferry Road. One attack on Naigai Wata Kaisha mill quarters where Jap-

³ Not printed.

anese marines were on guard narrowly missed being a most serious incident. The Japanese Consul General on the following day filed a very strong protest with the Shanghai Municipal Council for its failure to preserve order in that district, claiming that no serious disturbance would have occurred if street meetings by Chinese students and laborers had been suppressed by International Settlement police. The Shanghai Municipal authorities replied that if the Japanese marines had not been in evidence the mob would not have attacked the mill premises. There is some foundation for each statement. As a result of this verbal protest of the Japanese Consul General it was arranged that there should be a conference on the 20th of the Chairman of the Municipal Council, the Director General, and the Commissioner of Police on behalf of Shanghai Municipal Council and Japanese Consul General, representative of commander of Japanese marines and two Japanese members of the Municipal Council to endeavor to find a reasonable solution of the present problem which offers so many difficulties in the preservation of peace. As a result of this prolonged conference it was agreed that no drastic action by Japanese within International Settlement would be undertaken without consultation with International Settlement police authorities. This if lived up to is important move toward maintenance of peace during this tense period. It was emphasized by municipal authorities that they were responsible first and primarily for maintenance of order, and, as in the past, when they consider they are inadequate to meet the emergency they will so notify all the powers through the Senior Consul.

2. As indicating impotence of Municipal authorities it may be mentioned that on Sunday two Japanese took refuge in a shop and a mob stormed the shop, destroyed the glass, and the leaders were arrested by police and prosecuted in Shanghai District Court and found guilty, being fined insignificant sum of \$3 for destroying the front of the shop. This is mentioned to show handicap under which Municipal Police are placed as compared with all previous occasions when Court was administered for protection of Settlement rather than promulgation of alleged patriotic efforts.

3. The Director General who reported orally concerning the Municipal and Japanese Conference stated that he did not desire any action taken at present time by the Senior Consul; that he would keep Senior Consul well informed in regard to all happenings but as yet no action was requested; in event it was desired that communication of decision reached at conference be conveyed to members of consular body he would notify Senior Consul. He stated, however, that the British Consul General as well as the American Consul General would be kept well informed.

Repeated to the Legation.

CUNNINGHAM

793.94/2251 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 21, 1931—3 p. m.

[Received October 21—8:43 a. m.]

802. Japanese Legation informs me that they are withdrawing their consular officers and evacuating Japanese residents from Provinces of Jehol and Chahar.

For the Minister :

ENGERT

793.94/2253 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 21, 1931—4 p. m.

[Received October 21—12:45 p. m.]

234. Your 93, October 15, 11 a. m. Private Council meetings are not at present taking place, but in their stead meetings of the so-called Committee of Five are being held. From your recent instructions concerning the position for me to take here, I assume you would not wish me to take part in these meetings, for they are of course held in private. However, in view of your 93 and to be perfectly clear on this point, I respectfully solicit your wishes.

GILBERT

793.94/2463

*The Military Attaché in Japan (McIlroy) to the Adjutant General of the Army (Bridges) **

Tokyo, October 21, 1931.

No. 190. Full General Tanaka,* Retired, calling at my house last night by appointment stated very emphatically "I ask you to cable your Secretary of War that the fighting men of Japan will not permit the League of Nations or America to intervene in any way that might weaken Japan's position in Manchuria."

McILROY

* Copy of radiogram transmitted to the Department of State by the War Department, October 21.

* Unable to identify definitely. Believed to be General Kunishige Tanaka who was Military Attaché in Washington & London, aide-de-camp to the Emperor, headed military delegates to Washington Conference. WCC. (Major Crane) [Footnote in the original by Maj. W. C. Crane.]

793.94/2253 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 21, 1931—5 p. m.

113. Your 234, October 21, 4 p. m.

(1) I do not desire you to sit in any secret meetings or to take part in any discussions except in relation to the Kellogg Pact unless and until there has been an express alteration of your instructions. Naturally this includes the Committee of Five.

(2) Since you have been authorized by me to sit as an observer at the table in public meetings, my assent to the proposal to order you to the Department for consultation as an alternative to your withdrawal no longer stands. You have been instructed to sit at the table in public meetings, not to attend any secret meetings, and not to take any part in discussion other than as above stated.

(3) You may report to me the expression of any views and conclusions which you may have received, but you are to express no views except when and as instructed to do so.

STIMSON

793.94/2273 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 21, 1931—7 p. m.

[Received October 21—5:11 p. m.]

237. Consulate's 211, October 16, 11 p. m., Department's 108, October 20, 4 p. m.⁵

In a conversation with Briand this afternoon the question of a "sequia" to the Council's action respecting the Pact of Paris in its meeting of October 16 was brought forward. It was suggested that in a public meeting of the Council in which it should seem most opportune to him, Briand, as President of the Council, should make a statement in simple terms as to the action which had been taken in invoking the Pact (a) by states represented on the Council and (b) by other states signatories of the Pact (insofar as that action could be ascertained by him at the time of the meeting). He is requesting Paris to keep him currently informed of such pertinent information as is received there.

Such a statement as he would make would not cite any note sent to Tokyo or Peking but would merely name the states which had sent notes and make references to article 2 of the Pact.

⁵ Latter not printed.

He then envisaged that I might make similar statement or he would include the United States in his list. I said that I would take this up with you at once. I solicit your early instructions in order that, if this plan is to be carried out, Briand may have the opportunity to get the matter in hand.

GILBERT

793.94/2273 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 21, 1931—7 p. m.

114. Reference your 237, October 21, 7 p. m. The Department does not perceive sufficient reason to make a separate statement. Kindly inform M. Briand of our feeling that the United States should be included by him in his list.

STIMSON

793.94/2295 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 21, 1931—11 p. m.

[Received October 22—11:27 a. m.*]

238. My 232, October 20, 9 p. m. In a conversation late this afternoon with Briand, information was obtained as follows:

(1) More favorable news continues coming from China and Manchuria, indicating that tension is relaxing somewhat.

(2) Briand cited, among influences working in this direction, the representations which the French and perhaps others are making at Tokyo through diplomatic channels to induce Japan to refrain from further occupying or landing troops in Manchuria or China. One recent instance in particular was cited of a Japanese intention to land their forces at a Chinese port, with Shidehara giving a formal promise to desist when the French Ambassador made representations that such action would be contrary to Japan's agreements under the September 30 resolution of the Council.

(3) Briand is still awaiting a Japanese reply regarding his questions as to modification of their demands as covered by the crucial point based on treaties in the Japanese five points as communicated to

*Telegram in two sections.

Briand and Drummond (see my 233, October 21 [20th], 9 p. m.⁷ which followed a statement concerning the Japanese position in my 232, October 21 [20], 8 p. m. [9 p. m.]). The other four points appear reasonable, but this particular one involves important matters in relation to the question of solving the Manchurian problem as a whole. Briand deems this demand unacceptable, not only to China but also to himself and the Council, since, based as it is on solving a permanent problem, it does not conform to the conditions of the September 30 resolution of the Council respecting evacuation within a reasonable time.

(4) A reply is expected this evening by the Japanese, who say they received a telegram this morning but the last section was undecipherable, so they have asked for it to be repeated. It is suspected here that this is merely a pretext for delay.

(5) Briand's negotiations with the Japanese are being continued. This evening he intends to meet them, not alone, but in Drummond's presence, in order that any Japanese commitments will be made with a League official present.

(6) Now Briand's plan is that if the Japanese sufficiently modify their demands to make them seem reasonable and acceptable from the Council's point of view, they will be submitted for consideration to the Chinese. Should the latter accept them, a solution of the immediate question of Manchuria would appear to be assured.

(7) Should the Japanese not modify their demands as much as is deemed necessary, probably the Council will set forth, in the form perhaps of the resolution which was quoted in my 213, October 17, midnight, with amendments in my 222, October 19, 10 a. m., with further modification if needed, the project of a settlement based upon considerations believed to be right and just. This resolution or project would be submitted to both parties at a public Council session to serve as a record of the views of the Council that they should act upon this basis and report to the Council's next session on the extent to which the terms laid down had been fulfilled by them. A definite date for the next Council meeting would be fixed.

(8) Briand has meanwhile advised the Chinese against waiting until the last moment in making preparations to fulfill their engagements to protect Japanese lives and property but to make ready immediately a plan to institute necessary administrative measures to insure their security, in order that operations may at once begin, thereby removing any pretext for Japanese delay in withdrawing.

(9) Regarding the information on their five points confidentially given by the Japanese to Briand and Drummond, the latter still are

⁷ Not printed; it related to matters dealt with by the Secretary of State and the Consul at Geneva in a telephone conversation, October 20, 12:30 p. m., p. 286 (continued on pp. 272).

bound by promise not to transmit this information to anyone. Briand says he purposely refrained from pressing the Japanese to make the points public or more generally known to Council members, as his object was to render it easier for the Japanese to modify their demands. Had they been made public, the Japanese would be committed to public opinion at home and thus be in a more difficult position to reduce the extent of the demands.

(10) While assuming the Japanese have discussed this matter with you, Briand wonders if the fifth crucial point mentioned above may not have been presented in an entirely different way to you from that presented in Geneva.

(11) Suspecting the Japanese had been attempting perhaps to negotiate with the Chinese directly on their five points for the sake of obtaining commitments ahead of the conditions being made known generally, thus undermining the Council's basis of negotiations, the delegation representing France made inquiry of the Chinese in this regard and learned that such an attempt had in fact apparently been made in Tokyo by means of approaching the Chinese Minister there. However, it appears the Chinese here do not know the full meaning of the Japanese demands.

GILBERT

793.94/2272 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 22, 1931—7 a. m.

[Received October 21—11:25 p. m.]

804. Following from Consul General at Mukden :

"October 21, 11 a. m. The Bureau of Finance, Liaoning Province, was reopened on October 19 under provisional regulations drawn up by the peace preservation committee and sanctioned by the Japanese military authorities. Regulations which were published yesterday provided that scope of the Bureau's authority is the same as before, that Japanese advisers shall be engaged and their views respected, that a committee comprising Japanese representatives and the Japanese advisers, in addition to representatives of specified Chinese offices and organizations, shall revise the taxation system and that notice of the Chief of the Bureau must first be approved by the Japanese military authorities before issuance.

The reorganization of the Bureau of Civil Administration and Industry along similar lines, no doubt is under way.

On morning of October 20 the Mukden municipal administration was transferred to Chinese by Japanese mayor. Instead of Japanese officers, municipal offices will have four Japanese advisers."

For the Minister :

ENGERT

793.94/2296 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 22, 1931—8 a. m.

[Received October 22—7 a. m.]

805. Following from Hanson [and] Salisbury:

“October 20, 4 p. m. 1. This telegram will be an attempt to throw light on the general situation in Manchuria as a whole from September 18th to date.

2. The Department is aware that the relations between the Chinese and Japanese had been so tense that it was but a matter of time when a clash would occur. The Japanese military leaders were determined that matters should be brought to head and the Chinese military in Manchuria disorganized. The Chinese military leaders, such as General Chang Hsueh-liang and Chang Tso-hsiang, began to realize too late that the Japanese Army was preparing to strike and, according to reliable Chinese reports, ordered the local Chinese military to withdraw their troops in case of attack on the part of the Japanese to avoid warfare in which they knew they would suffer defeat, humiliation and loss.

3. The clash took place September 18th between 10 and 11 p. m. just outside of Mukden, and this started the Japanese Army in Manchuria into action.

4. Four companies (600 men) of the Japanese independent railway garrison stationed at and near Mukden early in the morning of September 19th attacked the north barracks and put to flight the 10,000 Chinese troops who were stationed there. In the meantime the Japanese Twenty-ninth Regiment (6 companies) stationed in the Japanese concession at Mukden attacked the Chinese troops inside and outside the city and before the day was over Mukden was in the hands of the Japanese Army.

5. The Second Division of Japanese troops under Lieutenant General Tamon was moved from Liaoyang to Mukden on the 19th and subsequently General Honjo, Commander of Kuantung Army, moved his headquarters from Port Arthur to Mukden.

6. Acting under orders from General Honjo, the Japanese military commanders directly concerned made surprise attacks (all of which began before dawn on the 19th) at the principal points of the South Manchuria Railway area and either drove away or disarmed the Chinese soldiers and police of that area. By early afternoon of the 19th the Japanese had taken, in addition to Mukden, Changchun, Newchwang (Yingkou) and Antung, the key cities (together with Dairen) of the South Manchuria Railway area. Having consolidated their position in this area, the Japanese military then moved to obtain control of the Chinese railways paralleling the South Manchuria Railway. On September 21st they took Kirin city (along with the Kirin-Changchun Railway), thus controlling movement on the Chinese Shenhai^a and Haiki^b Railways, which parallel the South Manchuria Railway on the east; on the morning of the 22nd they took over Cheng-

^a Shenyang (Mukden)-Hailung Railway.

^b Hailung-Kirin Railway.

chiatun and Tungliao, thereby controlling movement on the Chinese Ssutao¹⁰ and Tatung¹¹ Railways, that parallel the South Manchuria Railway to the west. Tungliao was evacuated on the 23rd. Shortly after these movements the Japanese military began to advance along Chinese-owned railways: on September 23rd they occupied the Kirin-Tunhwa line and Tunhwa (from which point they have been anxious to construct the Tunhwa-Kainei Railway) withdrawing however from this line and city on October 5th, and on September 25th Japanese troops moved north from Chengchiatun to Taonanfu whence they could advance on Tsitsihar via the Taonan-Angangki line. They withdrew from Taonan on the 26th. Until the time we left Taonan October [14th?] the Japanese military forces controlled the Ssuping-kai-Taonanfu line to Chengchiatun and were patrolling the branch to Tungliao. Reliable Chinese reports state that the Japanese blew up a portion of the Tatung line below Tungliao, making transportation of freight on that line impossible. The Shenhai and Haiki lines were for a while in Japanese hands but are now run by the Chinese administrations under Japanese financial supervision.

7. At present [Japanese] control Kirin, the capital of Kirin Province, and [Mukden,] the capital of Liaoning [Province], and Newchwang, Dairen and Antung, the three ports of entry into Manchuria. The all-Chinese route from Tientsin to Tsitsihar is blocked by them, thus isolating, as far as China proper is concerned, Tsitsihar and Harbin, both of which cities could be easily taken by Japanese.

8. Officially, Japanese military and consular [officers?], including General Honjo, state that Japanese Army attacked Chinese Army to prevent the latter, about two one [*sic*] hundred thousand Chinese against 10,000 Japanese forces in Manchuria, according to a Japanese report, aroused by the clash at Mukden, from annihilating Japanese forces and in the South Manchuria Railway zone and other places in South Manchuria. That this was not the real reason for the Japanese last attacks can be proved by the fact that the Chinese forces withdrew or allowed themselves to be disarmed in most cases when the Japanese advanced, thus indicating that they were under orders to do so, had no courage to fight Japanese, and in places like Harbin, which has Japanese population of 4,000 and to which no Japanese forces were sent, did not attack Japanese residents. We believe that the real reason for the Japanese attack was the desire of the Japanese Army to strike a fatal blow to the Chinese northeastern army, to restore the prestige of the Japanese Army and to secure the pawn to be redeemed by the settlement favorable to the Japanese of the irritable [*sic*] Chinese-Japanese disputes pending. We believe that the Japanese occupation of the places mentioned above is not contingent upon whether the presence of Japanese forces insures safety to lives and property of Japanese interests. At Antung and Changchun lives and property of Japanese are not in danger and would not be if Japanese forces were withdrawn. There is danger increasing throughout Manchuria from Chinese soldiers who have been driven away from their bases of supply and who have been forced by economic conditions

¹⁰ Ssuping-kai-Taonan Railway.

¹¹ Tahushan-Tungliao Railway.

to become brigands. There is little evidence that the Japanese desire to withdraw their troops in such a manner in which [as?] to forfeit their control of the principal political and military centers.

9. The Japanese military are controlling the Chinese civil authorities, some newly appointed since September 18, who are functioning fairly adequately at Newchwang, Antung, Mukden, Changchun and Kirin and other less important points. On October 19th we talked with Yuan Chin-kai, who is head of the Mukden Municipal Government Committee and who has been known to Hanson for 6 years. He stated he was only anxious for preserving peace until permanent municipal government could fix the blame. He was positive that the Japanese could not permit the return of Generals Chang Hsueh-liang and Chang Tso-hsiang to Manchuria. He felt that the Japanese were scheming to place the ex-Emperor, Hsuan Tung, at the head of a new Manchurian government. Judging by the fact that Japanese aircraft bombarded the Liaoning Provincial Government established at Chinchow, it is evident that the Japanese do not desire the formation of any government at or outside Mukden which is not approved and controlled by them. Yuan stresses the point that in Kirin city, Hsi Chia, former Chief of Staff of Chang Hsueh-liang,¹² had been sent by the Japanese to take over provincial government and declared it quite independent, and that General Chang Hai-peng of Taonan was about to make himself ruler of an independent Heilungkiang Province, either on behalf of Hsuan Tung or the Japanese, or both. Thus, according to Yuan, the Japanese could easily force on Kirin and Heilungkiang provincial governments or a government favorable to them, and Liaoning Province would be forced to join an independent Manchuria. Reliable foreign and Chinese observers feel that Yuan is being unconditionally forced by the Japanese to form a Liaoning Provincial Government with self at the head. These observers believe that when Yuan has established a stable provincial government he will be replaced by some one more willing to be the tool of the Japanese. Generally speaking, the mass of the thinking Chinese resident in Manchuria are opposed to the Japanese occupation of South Manchuria. However, there are certain elements, realizing that they can gain an immediate material personal profit from the Japanese, who are in favor of Japanese occupation.

10. In all places taken by Japanese military and visited by us, Chinese telegraph offices were closed but the Chinese post offices were not molested. In several places like Antung and Newchwang censorship of Chinese-addressed mail was established. Chinese wireless stations wherever found by Japanese were put out of commission. Telephone lines were everywhere operated only under Japanese supervision.

11. In some places like Antung and Changchun Japanese forces could be withdrawn into the railway zone without danger of Chinese reprisals or attacks from brigands. In other places like Mukden and Kirin Japanese military by driving away Chinese soldiers have created the dangerous situations which they at first stated they were anxious to avoid. Unless some provision is made to control and solidify the disbanded Chinese soldiers, which the Japanese Army wishes to permit

¹² Erroneously given for Gen. Chang Tso-hsiang.

pro-Japanese Chinese officials to remain [*supervise?*], Japanese troops cannot be withdrawn without exposing Chinese and foreign lives and property to danger.

12. Consideration should be given to the fact that the Japanese Army, although it will not admit it, is acting with relation to the armed Chinese, the civil population, government officers, foreigners and property, as if it were waging actual warfare and is guided by army regulations. It may not have attained all of its objectives but it has sufficient of them to enable it to dictate to the Chinese the solution of the many Chinese-Japanese disputes at hand. At present a deadlock exists. The Japanese demand a settlement of the outstanding disputes before the withdrawal of the Japanese troops, before commencing a discussion. Japanese hope to force a settlement by dealing with local Chinese officials, approved and controlled by them, and perhaps independent of any Chinese Government south of the Great Wall. There is no indication that the Japanese Army desires a return to the *status quo ante* at the present time."

For the Minister:

ENGERT

793.94/2301 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 22, 1931—9 a. m.

[Received 3:52 p. m.]

240. My 238, October 21, 11 p. m. At yesterday evening's meeting of the Committee of Five, Briand apprised it of the results of his Japanese negotiations. The net result and the situation which arises from it are as follows:

(1) No reply from Tokyo has been received here by the Japanese representative concerning his Government's position on the five points mentioned in paragraph (3) of my 238.

(2) Briand found in the course of his negotiations that the Japanese decline to accept (a) a withdrawal time limit and (b) neutral observers. Thereupon he suggested to the Japanese that they at once undertake negotiations with the Chinese to embrace only questions which immediately relate to Japanese evacuation and the security of Japanese life and property, with all other questions excluded. Actually this is the same question referred to in (1) above. A Japanese reply is awaited.

(3) Briand proposed to the Committee of Five a draft resolution, and the Committee adopted it.

(4) With only the French text of this draft resolution available, the first four paragraphs appear identical with the first four in the

resolution quoted in my 213, October 17, midnight, as amended in my 215, October 18, 2 p. m.

There is a wide difference between the remaining paragraphs of this draft resolution and those quoted in my telegrams under reference.

As soon as the final phraseology has been agreed upon, I will send you the text in full. However, the essential idea of it is that, for the purpose of giving effect to the September 30 resolution of the Council, the disputants will begin immediate conversations, through their chosen representatives, in order to conclude the arrangements necessary for both the withdrawal of Japanese troops and the security of Japanese lives and property, these arrangements being such as to allow the completion with the least possible delay of the evacuation. The resolution provides further for the Council's adjournment until November 12 in order to permit sufficient time for the conversations in question and the following evacuation to be completed, it being implied that the Council expects completion of the evacuation, or at least its near completion, prior to the date of the next session.

(5) If the disputants accept the terms of this resolution, it will become a Council resolution.

(6) The draft will be presented first to the Japanese; if they reply favorably, Briand will call in the Chinese and endeavor to have them accept it. If the Chinese in turn accept it, then the arrangement will be confirmed at another conference with the Japanese. Briand is submitting a report at 10:30 a. m. today to the Committee of Five.

(7) Should the Japanese reply unfavorably, the Council at its next meeting will return to the resolution quoted in my telegram under reference. This will be presented to both disputants with the invitation to "reflect". Then the Council will adjourn until a specific date.

(8) The foregoing procedure probably will be followed also if the Japanese accept but the Chinese refuse, though this is considered less likely.

GILBERT

793.94/2246 : Telegram

*The Acting Secretary of State to the Consul General at Nanking
(Peck)*

WASHINGTON, October 22, 1931—1 p. m.

98. For the Minister: Your October 20, noon. The Department's No. 96, sent you yesterday (1 p. m.) before the receipt of the complete text of your telegrams under reference, will have made clear to you the attitude and aims of the Department with reference to the Manchurian situation and the limitations within which our representative at Geneva

was instructed to cooperate with the Council of the League. You will note that [Paraphrase.] he was to refrain scrupulously from taking part in discussing measures which might be under the Council's consideration under and in relation to League Covenant provisions or those of any instrument other than the Kellogg Pact. [End paraphrase.]

In view of the above and with special reference to paragraph 8 of your telegram under reference, the Department is strongly of the opinion that the suggestion at this time of recourse to possible lines of procedure other than such as may be under consideration at Geneva, or of any agency for the settlement of the question other than the agency which is now especially struggling with it, namely the Council of the League, would tend merely further to confuse the situation.

Department feels that for the time being, although possibilities in connection with the Nine-Power Treaty may be discussed among its officers and representatives, discussion thereof with others should in no case be upon our initiative and should for the most part be avoided.

Your paragraph 9. The Department concurs and approves of your meetings with President Chiang.

CASTLE

793.94/2313

*The Chinese Chargé (Yung Kwai) to the Secretary of State*¹³

WASHINGTON, October 22, 1931.

SIR: I have the honor to inform you that I am instructed by my Government to deliver to you the following note:

"The Chinese Government has received from the American Government the communication dated October 21st,¹⁴ in which the American Government calls the attention of the Chinese and Japanese Governments to the obligations arising from the Treaty for the Renunciation of War and expresses the hope that both China and Japan will refrain from any measures which might lead to war.

"The Chinese Government and people deeply appreciate the renewed expression, on the part of the Government and people of the United States, of the profound concern with which they have observed

¹³ The following memorandum by Mr. Ransford S. Miller of the Division of Far Eastern Affairs, dated October 23, 1931, is attached to the original:

"In leaving this corrected copy of the Chinese Legation's note of October 22, 1931, Mr. Yung Kwai stated that the clause 'is especially gratified to learn that the American Government' in the second paragraph, lines 6 to 8, had been omitted from the copy handed in yesterday,—or rather that this clause had been inserted by error somewhere in the following paragraph.

"Mr. Yung Kwai stated he did not consider this change material, except for record, inasmuch as the text as handed in yesterday has already been published."

¹⁴ See telegram No. 388, October 20, 2 p. m., to the Minister in China, p. 275.

the development of events in China since the 18th of September. The Chinese Government is especially gratified to learn that the American Government has cooperated with the League of Nations in its efforts to secure a peaceful settlement.

"It has been in absolute reliance upon the principles of international law and international agreements, particularly those for the perpetuation of peace among nations, and for pledging respect for the sovereignty, the independence, and the territorial and administrative integrity of states, that the Chinese Government has consistently refrained from employing force to meet the situation created by the occupation of Chinese territory by Japanese troops and other warlike actions of Japan, in the belief that such actions would not be permitted to go unchallenged by the powers which should feel deeply concerned in the matter. Especially faithful to the obligations assumed under the Treaty for the Renunciation of War, the Chinese Government has been seeking, from the very beginning, a just and adequate settlement by pacific means. China has not adopted any measures of war but has appealed to the United States of America as well as the League of Nations under the provisions of existing international agreements.

"It is the sincere desire of the Chinese Government to settle the present crisis by peaceful means under conditions which give a guarantee of fair and equitable treatment for all concerned and to cooperate to the fullest possible extent with the American Government, the sponsor of the Treaty for the Renunciation of War, in its efforts to uphold the sanctity of international engagements."

Accept [etc.]

YUNG KWAI

793.94/2297 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 22, 1931—2 p. m.

[Received 2:55 p. m.]

241. My 240, October 22, 9 a. m. I hear that the Japanese position is unfavorable on the crucial "fifth point", that is, they insist upon their demand for settlement of certain questions connected with the general solution of permanent problems in Manchuria in advance of Japanese evacuation. At its public meeting called for this afternoon the Council will, I understand, fall back upon the resolution which was quoted in my 213, October 17, midnight; 215, October 18, 2 p. m.; and 222, October 19, 10 a. m., with certain further alterations.

GILBERT

793.94/2305 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 22, 1931—6 p. m.

[Received 10:37 p. m.¹⁵]

242. The Council convened in public session at 4 o'clock this afternoon. The Japanese representative immediately read the following statement:

"As you will remember, I raised the objection the other day from a constitutional point of view to inviting a representative of a non-member state to participate in the deliberations of the Council. I still maintain the legal stand I took on that occasion, but now with the representative of the United States at this table I am glad to be able to assure him and the members of the Council that it is the traditional policy of my country to promote the principle of friendship and amity with the United States and that both the Government and people are determined to live in peace and good will with that country for all times by pursuing this policy consistently."

I replied to this as follows:

"The conditions of my association with you and the limitation with respect to my speaking are of course understood. In this instance I wish, however, to beg the indulgence of the President of the Council that I may be permitted to respond to the words of the representative of Japan.

I have heard with deep gratification what the representative of Japan has said and I wish to assure him that I heartily appreciate the spirit in which he has spoken. I have never had any thought of attributing his position in this matter to other than juridical considerations, but it gives me great pleasure, nevertheless, to be able to hear him say this and to reassure him that on my part he may have no fear of my interpreting his attitude in any other light.

The sentiments which he has expressed as to the relations between our countries are cordially reciprocated. We look upon the long record of peace and friendship between our people and the people of Japan as among the happiest pages in our history, and the thought is furthest from our minds that that record should ever be broken."

Briand then spoke as follows:

"I desire to inform the Council that most of the Governments represented on the Council having felt it necessary, as signatories of the General Pact for the Renunciation of War, to send on the 17th October by telegram, and through their diplomatic representatives, an identic note to the Governments of China and Japan calling their attention to the provisions of this Pact—and more especially to the terms of article 2 thereof—I was requested to inform the other signatory Governments of that Pact by telegram of this fact.

¹⁵ Telegram in three sections.

These communications have been duly made through the representatives of the French Government to the Government of the United States, and also to the other Governments concerned. There has been handed to those Governments a copy of the identical note sent by the members of the Council. Since this communication of the French Government was received by the Government of the United States, that Government, through the agency of its diplomatic representatives, sent by telegram an identical note to the Governments of China and Japan. I am not in a position yet to inform the Council of the action which may have been taken, as a result of my communication, by the other Governments concerned. As regards the reception by the parties of the identical note which was sent to them, I have received, so far as I am concerned, this morning, a communication from the representative of China, which will be read."

The Chinese representative then read a communication from his Government which incorporated the reply of the Chinese Government to the French note invoking the Pact of Paris. As this reply or a similar one is doubtless available to the Department, I am not transmitting it in this telegram.

Briand then made a statement summarizing the positions of both China and Japan and spoke briefly regarding the long negotiations which had taken place in an effort to find a formula satisfactory to all. He declared that the results of these efforts are incorporated in the draft resolution which had been unanimously agreed upon, with the exception of the two disputants, which he then presented to the Council. The resolution follows:

"The Council,

In pursuance of the resolution passed on September 30th, and noting that in addition to the invocation by the Government of China, of article 11 of the Covenant, article 2 of the Pact of Paris has also been invoked by a number of Governments;

(1) Recalls the undertakings given to the Council by the Governments of China and Japan in that resolution, and in particular the statement of the Japanese representative that the Japanese Government would continue as rapidly as possible the withdrawal of its troops into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured, and the statement of the Chinese representative that his Government will assume the responsibility for the safety of the lives and property of [Japanese] nationals outside that zone—a pledge which implies the effective protection of Japanese subjects residing in Manchuria;

(2) Recalls further that both Governments have given the assurance that they would refrain from any measures which might aggravate the existing situation, and are therefore bound not to resort to any aggressive policy or action and to take measures to suppress hostile agitation;

(3) Recalls the Japanese statement that Japan has no territorial designs in Manchuria, and notes that this statement is in accordance with the terms of the Covenant of the League of Nations and of the Nine-Power Treaty, the signatories of which are pledged 'to respect

the sovereignty, the independence and the territorial and administrative integrity of China';

(4) Being convinced that the fulfillment of these assurances and undertakings is essential for the restoration of normal relations between the two parties:

(a) Calls upon the Japanese Government to begin immediately and to proceed progressively with the withdrawal of its troops into the railway zone, so that the total withdrawal may be effected before the date fixed for the next meeting of the Council;

(b) Calls upon the Chinese Government, in execution of its general pledge to assume the responsibility for the safety and [*of the*] lives [and property] of all Japanese subjects resident in Manchuria, to make such arrangements for taking over the territory thus evacuated as will insure the safety of the lives and property of Japanese subjects there, and requests the Chinese Government to associate with the Chinese authorities designated for the above purpose representatives of other powers in order that such representatives may follow the execution of the arrangements;

(5) Recommends that the Chinese and Japanese Governments should immediately appoint representatives to arrange the details of the execution of all points relating to the evacuation and the taking over of the evacuated territory so that they may proceed smoothly and without delay;

(6) Recommends the Chinese and Japanese Governments, as soon as the evacuation is completed, to begin direct negotiations on questions outstanding between them, and in particular those arising out of recent incidents as well as those relating to existing difficulties due to the railway situation in Manchuria. For this purpose the Council suggests that the two parties should set up [a] conciliation committee or some such permanent machinery;

(7) Decides to adjourn until November 16th, at which date it will again examine the situation, but authorizes its President to convoke a meeting at any earlier date should it in his opinion be desirable".

Briand stated that this draft resolution must not be regarded as one that cannot be modified and he invited the representative[s] of Japan and China to express their views as soon as they have had an opportunity to examine it sufficiently.

Sze then stated that at the first glance this resolution "appears to fall far short of what the Chinese Government considers the situation demands and what it is entitled to ask." He recognized however that it represents the results of the Council's labors to safeguard peace and secure justice and must therefore be carefully considered. He announced that the text has been telegraphed to the Chinese Government and requested a short delay in order to obtain instructions.

The Japanese representative thereupon read a long statement which was not entirely pertinent to the question at issue. He reviewed the whole Japanese position with regard to Manchuria, which has been

summarized in previous telegrams, and reiterated that Japan has no territorial designs in that region. He stated that his Government cannot "here and now fix a definite date at which circumstances will make it possible for the last of its men to be brought back within the railway zone" and declared that the exact moment of this withdrawal depends upon the "peaceful intentions and the good will shown effectively by the Chinese Government."

Yoshizawa then reserved the right to present observations on the draft resolution after a thorough study of the text.

Briand thereupon interposed to say that in accordance with the desires of both the Chinese and Japanese representatives to study the draft resolution and the desire of the Chinese delegate to secure instructions the Council naturally would accede to the request for a brief delay.

After thanking the President for this courtesy, Sze made a brief statement in reply to the Japanese wherein he declared "the obligations that each country assumes under the League Covenant, under the Paris Pact or under the Nine-Power Treaty, or any other treaty which we have voluntarily entered into without any reservation, are expected to be carried out without any excuses for violating them." He then stated that he would not discuss at this time the speech of the Japanese delegate but that he would give it careful study and if necessary make an appropriate reply later.

The Japanese representative also reserved the right of further comment.

Briand then stated that the holding of another meeting of the Council would depend upon the instructions being received, he suggested that the next meeting should be fixed tentatively for tomorrow, October 23, 5 p. m. This was agreed to on the understanding that if the Chinese delegate had not received his instructions some other arrangement would be made.

GILBERT

793.94/2303 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 22, 1931—7 p. m.

[Received 8:32 p. m.]

243. Drummond has handed me for communication to you the following message from the Japanese delegation dated October 17, which has been circulated to the members of the Council:

The troops from the Shingishu (Korea) garrison which had been sent to Manchuria were all sent back to their garrison on the 16th

instant. I had the honor to inform you in a previous letter that some of these troops were sent back to Korea on September 28th.

GILBERT

793.94/2281 : Telegram

The Acting Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 22, 1931—midnight.

116. In regard to the situation in Manchuria, a statement has been received by the Department outlining the situation at Geneva as of October 20, from which is quoted the following:¹⁶

"The Japanese delegation is unofficially telling people that after the Secretary of State's explanation to Japanese Ambassador indicating that America would not join in economic sanctions, Japan would not continue to object to the presence of American representative in Council meetings. Japan's tactics seem to separate Washington from Geneva just as she successfully did in September. Officially she is taking stiff attitude in negotiations with Briand."

You may tell this to the Secretary General or M. Briand or Lord Reading. You may state that there has been no statement by the Secretary on either joining or refusing to join in action which the League may take or propose. The American Government is in no way committed, either affirmatively or negatively, in this connection.

CASTLE

793.94/2314 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 23, 1931—6 p. m.

[Received 8:50 p. m.¹⁷]

245. Yesterday evening Drummond and Yoshizawa had a conversation substantially as follows:

Drummond was shown by Yoshizawa the text of a telegram sent him by Tokyo. It explained the Japanese Government's reasons for inability to accept any time limit for the evacuation of Japanese troops (the same reasons as set forth yesterday afternoon by Yoshizawa before the Council; see my 242, October 22, 6 p. m.) but stated the Government's willingness to inform the Committee appointed by the

¹⁶ Quotation not paraphrased.

¹⁷ Telegram in two sections.

Council of the result as evacuation and direct negotiations progressed. Yoshizawa expressed then his regret that, in view of what he considered a step forward taken by his Government, the Council had been presented with the resolution.

Drummond told Yoshizawa that he greatly regretted a satisfactory issue had not been reached in the negotiations between Briand and the Japanese. Briand's proposal had as its entire object the modification by the Japanese Government of the "fifth point" in such a way as to bring it within the terms of the Council's resolution of September 30, particularly the part applying to security. It was Briand's position that the modification the Japanese suggested in the fifth point did not object to the foregoing purpose, and in view of this it was not possible to agree upon a recommendation of direct negotiations in advance of the evacuation. Thereupon Yoshizawa read the amended fifth point to Drummond as follows:¹⁸

"An undertaking on the part of the Chinese Government to fulfill the obligations which China owes to Japan under the provisions of the existing treaties between the two countries relating to railways in Manchuria."

Drummond said in respect of this fifth point that the difficulty still remained. He added that he feared the entire matter had reached a stage in which it was now impossible to turn back to the stage of yesterday or the day before, because the new resolution had been published.

Drummond next took up with Yoshizawa the question of the Japanese Government's meaning of the words "provisions of the existing treaties". Did this, in other words, mean provisions of treaties mutually recognized or refer to treaties not accepted by the Chinese Government?

Yoshizawa declared he was unable to answer directly, but he thought the phrase applied, for instance, to the Peking protocol containing the provision that no railways competitive with the South Manchuria Railway should be built in China.¹⁹ In reply Drummond said he understood this protocol was disputed. Yoshizawa stated that this was the case, and there was also a dispute over the Chientao agreement concluded about 20 years ago and regarded by Japan as very important.²⁰

Drummond stated then that, this being the situation, he saw no way to meet the position of Japan. He added that the only suggestion he could offer was for Yoshizawa to ask Sze in public whether

¹⁸ Quotation not paraphrased.

¹⁹ See League of Nations, *Report of the Commission of Enquiry* (Geneva, 1932), pp. 43-44.

²⁰ For text of agreement between China and Japan relating to Chientao, signed September 4, 1909, see *Foreign Relations*, 1909, p. 119.

China was prepared or not to fulfill the obligations it had undertaken under the terms of treaties which both parties recognized. If the Chinese representative answered affirmatively, then the Japanese Government would obtain an undertaking giving effect to the fifth point of Japan. If there then arose the question of the validity of certain treaties, recourse could be had by Japan to the Hague Court. Yoshizawa replied to this that he was afraid his Government would be disinclined to take such a matter before the Hague Court.

Drummond drew attention then to the terms of the resolution as made public (my 242) and stated that Yoshizawa would note the inclusion in the resolution's first three articles of the first four points of the Japanese demands. As to the fifth point of Japan, the resolution included a recommendation to study it immediately upon completion of Japanese evacuation. Thereupon Drummond reiterated his suggestion that Yoshizawa question Sze in the sense already indicated.

In regard to the above, Yoshizawa said he feared his Government, which was very firm, probably had said its last word on this subject. If, moreover, the meeting were held the next afternoon, there would hardly be time to consult with his Government.

To this Drummond replied that, if it were merely a question of consulting his Government, the Council, he felt sure, would be ready to give Yoshizawa a little more time, as it had done for Sze.

Drummond reiterated then to Yoshizawa that the matter had now gone beyond the stage where the proposal made by Briand (see paragraph (4) of my 240, October 22, 9 a. m.; no full text was transmitted because this project was dropped prior to decision on its wording) was still open for the Japanese Government's acceptance, since the new resolution had been presented. Things would have been easy if the Japanese Government could have dropped the fifth point, but apparently Japan was willing neither to drop this point nor to modify it in the sense proposed by Briand. Yoshizawa's only reply was that what had been said would receive his consideration.

GILBERT

793.94/2315 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 23, 1931—7 p. m.

[Received 7:52 p. m.]

812. Following from Consul General at Mukden :

"October 22, 4 p. m. Japanese officially report clash between 1,000 Chinese troops and 2 companies railway guards about 8 miles south of Tiehling at 10 o'clock, 21st. Casualties were Chinese, 60 killed and

wounded. Japanese, none reported. Troops are retreating westward from east of Kirin, Japanese cavalry despatched to cut them off.

Japanese aircraft scouting over Taonan-Angangki Railway fired upon by Chinese troops and in turn dropped bombs. Troops scattered but no material damage done as bombs were dropped in open field. Two bridges on railway were recently destroyed [by] Chinese troops, and Japanese gave necessity of protecting their interest in railway as reason for action.

Chinese troops were seemingly retreating toward Chinchow."

For the Minister :

ENGERT

793.94/2318 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 23, 1931—10 p. m.

[Received October 24—3 : 20 a. m.²¹]

246. The Council convened in public session at 6:30 p. m. today. There was immediately communicated to it the response of the Japanese Government to the telegram sent by the signatories of the Pact of Paris to Japan. As this reply has undoubtedly been received in Washington, I am not transmitting it here.²²

After a brief opening statement by Briand announcing the two disputants were prepared to comment on the draft resolution presented in yesterday's session, the Chinese delegate made a carefully prepared statement, pertinent portions of which are quoted or summarized as follows:

"The Chinese Government had hoped that [by] this time the Council would have found it possible to settle the question of withdrawal of Japanese troops from Chinese territory speedily and completely. To-day it is more than a month since large areas of Manchuria were occupied and these areas are still occupied in spite of Council's continuous deliberations on this matter from September 22 to September 30, and again from October 13 to this day, in spite of the cooperation of the United States as symbolized in a [*the*] presence here of a representative of the United States and expressed in the note of that Government to the Council in which it urged the League 'in no way to relax its vigilance and in no way to fail to assert all the pressure and authority in its competence', and for its part promised to act independently through its diplomatic channels 'to try to reenforce League action' and to 'make it evident that it has not lost interest in the question and is not oblivious to the obligations which Japanese and Chinese have assumed to other signatories of the Pact of Paris as well as the Nine-Power Treaty'.

Public opinion is often unfortunately impatient and ill informed and I cannot conceal from my colleagues here my fear lest public opin-

²¹ Telegram in two sections.

²² For text of Japanese reply, see telegram No. 193, October 24, 9 a. m., from the Chargé in Japan. *Foreign Relations, Japan, 1931-1941*, vol. I, p. 28.

ion may be tempted to draw the conclusion from the events of the last 5 weeks and the position reached today that if the joint efforts of the United States and Members of the League do not after 5 weeks suffice to free the territory of one member of the League and signatory of the Peace Pact from the technical [*an unlawful*] invasion of the army of a second member of the League the [*and*] fellow-signatory of the Peace Pact, there may be some hitherto unsuspected flaw in the machinery of peace or lack of determination on the part of the civilized nations to make that machinery work effectively. I need not point out, Mr. President, that if such a suspicion were to take root it would have consequences for the prospects of disarmament and American cooperation within the League that we should all deplore.

That is why I wish to make it perfectly clear that in my view these delays and this appearance of hesitation, which I join with my colleagues on the Council in regretting, seem perfectly intelligible, even natural; precisely because this is admittedly the gravest issue that has confronted the League since its foundation, precisely because it may ultimately involve stretching and testing to the utmost the authority of the competence [*and confidence*] of the League, the willingness of the United States to reenforce its action and the readiness of world public opinion to support any wise the [*and*] effectual action to safeguard the peace of nations, precisely for these reasons it is inevitable that our proceedings should be tentative and groping and proceed step by step. The peace machinery of the world is slow and cumbersome. Some of its parts are yet untried but it is powerful and comprehensive and its effects are cumulative.

For this reason, although I regret that [*the*] further delay, I bow to the Council's view of its necessity. For this reason too—and to show its unswervingly conciliatory spirit—the Chinese Government authorizes me to accept the resolution before us, although it appears to my Government to fail to grapple with some of the most urgent necessities and pressing dangers of the present situation. We accept it as a bare minimum, as marking merely the power [*present*] stage in the League's handling of this problem and as a proposal which, because it is put before us publicly by all the Members of the Council, except the parties, as the outcome of their prolonged discussions, must be regarded as fixed in its main lines and subject to amendment only on minor details."

Sze then went on to cite what the Chinese Government considered the most important provisions of the draft resolution, namely, section 4. He considered that the delay provided in this proposal was very long and expressed the concern of his Government as to the grave danger that some incident might seriously compromise the peaceful settlement of the problem. He nevertheless declared that the Chinese Government accepts the proposal and expresses its readiness to carry out in full all of the obligations it imposes upon China. Moreover his Government was willing to go further by examining "in the most conciliatory spirit here and now any proposals for extending the system of neutral officers, or, with the help of the League, devising any other arrangements on the spot to guarantee the safety of Japanese lives

and property in the reoccupied territory, in order to dispel any apprehension the Japanese Government may entertain as to the danger to its subjects that might result from compliance with the Council's resolution". With regard to the terms of "evacuation" and "taking over of evacuated territory" in the resolution, Sze stated that he interpreted these to mean in short so far as possible the *status quo ante* shall be reestablished.

The concluding portions of his speech follow.

"I have the honor herewith to request the members of the Council and the representative of the United States to be good enough to signify their readiness to accept an invitation from the Chinese Government, which will be forthcoming without delay, to designate representatives to be associated with the Chinese authorities, under paragraph 4 (b) of the Council's resolution.

And now I come to one more point which the Chinese Government regards as crucial. Paragraph 6 [of the] resolution before us makes it clear that withdrawal is the only subject before the Council at present and that until withdrawal has been completed no other issue arises. But I should like to make it quite plain that in the view of the Chinese Government the only immediate issue arising out of the present situation besides withdrawal is the question of responsibility and assessing damages for the events that have occurred since September 18th. The Chinese Government is willing, nay anxious, and has been from the beginning, to submit to any form of neutral third-party judgment on this issue, in accordance with League principles and precedents and in conformity with elements of justice.

But any attempt to make the military invasion of Manchuria the occasion for pressing for the solution of the other claims would be contrary to the spirit of the Covenant and a violation of article 2 of the Peace Pact. China will not discuss any subject with any power under the pressure of military occupation of her territory nor, what amounts to the same thing, under the pressure of accomplished facts resulting from the use of force during such occupation. This point is vital and goes to the root of the whole controversy before the Council; is indeed the basic principle on which the Covenant and the Peace Pact are founded. It is because in the view of the Chinese Government this point is vital and fundamental that I have stressed it and it is for the same reason I add that the Chinese Government is assured that in adopting this attitude it has as a matter of fact the full and unqualified moral support of every Member of the League and signatory of the Peace Pact.

It further goes without saying that any discussions between China and any other power on any subject must take place on the basis of Chinese rights and obligations under the Covenant and Peace Pact and must respect the principles laid down at the Washington Conference of 1922 with regard to relations between China and other powers."

The President of the Council then submitted a counterproposal presented by the Japanese representative. This counterproposal conforms to the text of the draft resolution presented yesterday and transmitted by Consulate's 242, October 22, 6 p. m., insofar as the preamble

and paragraphs 1 and 2 are concerned. With regard to paragraph 3 the Japanese counterproposal would change the words "in accordance with the terms of the Covenant" to read "in accordance with the spirit of the Covenant".

The other paragraphs of the counterproposal are worded as follows:

Paragraph 4. "Takes note again of the statement made by the representative of Japan on October 13, to the effect that the Government of Japan will proceed with the withdrawal into the railway zone of the troops that are still in a few localities outside the said zone as the pacification of public opinion and a *détente* is brought about by the conclusion of a preliminary agreement between the Chinese and the Japanese Governments as to the fundamental principles governing normal relations—that is to say, affording an assurance that the life of Japanese nationals and the protection of their property will be safeguarded."

Paragraph 5. "Recommends to the Chinese and Japanese Governments that they begin forthwith discussions with the object of concluding the agreement mentioned in paragraph 4."

Paragraph 6. "Recommends to the Chinese and Japanese Governments that they appoint representatives to settle the practical details of evacuation and the taking over of the evacuated localities."

Paragraph 7. "Requests the Chinese and Japanese Governments to keep the Council informed of the progress of negotiations between them and of the progress made in carrying the present resolution into effect."

Paragraph 8. "Authorizes its President to take, after considering the above-mentioned communications, such measures as he may think useful to insure that the present resolution shall be carried into effect, and to convene the Council at any moment with a view to reexamining the position."

In his observations on the draft resolution presented yesterday the Japanese representative reiterated the contention that his Government was only taking defensive police and security measures, without aggressive or hostile intention, that it had no territorial designs in Manchuria and would withdraw the troops as soon as circumstances permitted without danger to Japanese nationals and property. He would therefore accept paragraphs 1, 2 and 3 of the draft resolution but asserted that the Japanese Government under present conditions could not fix a definite date for evacuation. Japan harbors serious misgivings as to the real efficacy of the safeguard proposed in subsection (b) of paragraph 4 of the draft resolution and regards it as first essential that the present disorder in Manchuria should subside. The Japanese Government has carefully thought out what is necessary to bring about such a *détente* and "has determined a number of fundamental points upon which normal relations between China and Japan should be based". He asserted that the Japanese Government regarded

such an agreement as essential but stated that there was no question of attempting to wrest concessions or privileges from China but wished only to remove the causes of friction.

With respect to direct negotiations, to which reference is made in paragraph 6 of the draft resolution, the Japanese delegate expressed the willingness of his Government to begin such negotiations whenever convenient to China.

It was with the above considerations in mind that the Japanese delegation submitted its counterproposal.

Sze thereupon declared that he could not accept the proposals submitted by the Japanese representative.

Cecil enters the debate in an attempt to extract from the Japanese representative an interpretation of the words "the conclusion of a preliminary agreement between the Chinese and Japanese Governments as to the fundamental principles governing normal relations" employed in paragraph 4 of the Japanese counterproposal. He wished precise information as to what constituted these "fundamental principles"; nothing had been said about that on September 30. Cecil also requested an explanation with regard to paragraph 8 of the Japanese counterproposal. He wished to know if it were correct that the Japanese representative did not propose to fix any date for a future meeting of the Council and he would also inquire exactly what authority would be given to the President of the Council under this paragraph.

In reply the Japanese representative stated that the fundamental principles were "matters which will give us an assurance that the lives and property of Japanese nationals will be effectively safeguarded". With regard to paragraph 8 he said that the Japanese Government had no objection to the Council meeting of November 16; as to the authority conferred upon the President of the Council, he stated that they "have nothing special in view" under this statement.

In the concluding statement of the meeting Briand said that there was a crucial point in connection with the Japanese counterproposal, which must be cleared up. In making an analysis of the proposal, he considered that the proposed negotiations between the two disputants bear upon two groups of subjects very different in character. There is the first group in which he thought agreement should be comparatively easy and which consists of providing conditions of security which would assure the certainty that Japanese nationals and property will not be subject to reprisals in the area to be evacuated and would thereby enable Japan to withdraw the troops. Briand considered that action to this end would comprise police measures, administrative measures, possibly military measures, but measures that can be quickly planned and expeditiously carried out.

If, however, the second group of subjects which comprises matters which have been under dispute for considerable time, is to be dis-

cussed before evacuation takes place, the time limit set by the Council for evacuation will be far too short for any effective result and on this point there is complete disagreement between China and Japan. He would therefore ask the Japanese representative whether, when reference is made to "fundamental principles" in paragraph 4 of the Japanese counterproposal, there was an intention of including this second group of subjects and regarding them as an element of security. If such subjects were included the whole problem would arise anew. If on the other hand paragraph 4 of the Japanese counterproposal is intended only to cover conditions on security as embraced in the first group of subjects it was Briand's opinion that a certain agreement had been effected.

After summarizing the difficulties with which the League was faced in this matter and pointing out the necessity for patience Briand suggested adjourning the discussions to 10 a. m. tomorrow, October 24. This was agreed upon and the Council rose.

GILBERT

793.94/2322 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 24, 1931—3 p. m.
[Received 11 p. m.²²]

247. The Council met in public session this morning at 10. The Japanese representative opened on [*sic*] the discussion by defining the "fundamental principles" referred to in the Japanese counterproposal (Consulate's 246, October 23, 10 p. m.) as questions only intended to bring about pacification and "upon which agreement can be easily reached before withdrawal of troops." Matters pending agreement over a long period of time were not fundamental principles requiring immediate settlement but appropriate subjects for subsequent negotiation. He added that paragraph 7 of the Council draft resolution could be easily substituted for paragraph 8 of his counterproposal if the Council so desired.

Cecil then inquired why, if the same interpretation was to be given to "fundamental principles" in both draft resolutions, Japan could not accept the first proposal. He then asked the Japanese representative to comment upon a newspaper statement to the effect that what Japan really demanded was a final acceptance by China of existing treaty provisions.

The Japanese representative replied that his Government has a "certain idea" respecting fundamental principles which he was not authorized to communicate but which nevertheless pertained to the safeguarding of Japanese nationals in Manchuria.

²² Telegram in three sections.

Madariaga asked what importance Japan attached to the substitution of paragraph 3 of its counterproposal of the words "spirit of the Covenant" for "terms of the Covenant". He was of the opinion that troops of occupation tended to increase insecurity rather than allay it and was apprehensive lest the desire for security be indefinitely expanded to cover "pacification" which again might be made to depend on [settlement of questions?] as [*sic*] having nothing to do with security or evacuation.

Cecil next read a Reuter despatch from Tokyo stating that Japanese official circles appeared to hold the view that inasmuch as the League had declined to recognize the sacredness of the treaties Japan should not be forced to change its stand. Cecil pointed out that no reflection had ever been cast upon the sacredness of the treaty obligations but that to the contrary the Covenant under whose terms the Council was acting reenforced such recognition. The meaning and validity of treaties was not always clear, he explained, but the settlement of these on something [*questions?*] was the function of the Permanent Court and could hardly be made the condition of evacuation.

In reply to Madariaga the Japanese representative stated that with respect to paragraph 3 of the draft resolution he had no objection to reverting to the original wording whereby the word "terms" would be restored in place of the word "spirit". In reply to the other arguments of the Spanish representative, namely those regarding the "fundamental principles" referred to and which must be considered in the questions of security and evacuation, the Japanese representative said that "it is the view of my Government that it is absolutely necessary for it to reach an agreement in order to ensure security and as soon as that has been done our troops will be withdrawn immediately."

In answering Lord Cecil the Japanese delegate asserted that he had never informed Tokyo to the effect that "the Council rejected the contention of our delegation concerning the upholding of the sanctity of treaties." He regarded the sending of any such press despatch as deplorable and wished to assure Cecil that he would send a telegram to Tokyo on the subject immediately following this morning's session.

Briand followed by analyzing the discussion which had taken place and appealed to the Japanese representative to be more conciliatory. His remarks may be summarized as follows: Between the two proposals before the Council "there is a fundamental difference regarding what are the subject matters to be contemplated in connection with the safeguarding of the persons and property of Japanese nationals outside the zone, whereby the Japanese Government would be enabled to effect a withdrawal." With respect to the Council's proposal he was

of the opinion that it had the merit of being absolutely clear, whereas the text of the Japanese counterproposal had certainly given rise to uncertainty and to difficulty of [*sic*] *ipso facto*. He felt sure that Japan would never take shelter behind an ambiguity and thought such a consideration alone recommended the Council's text. The latter he stated is based on obligations of both parties and is inspired by the statement made at the very beginning of the dispute by the Japanese representative, when he said his Government "would proceed as rapidly as possible with the withdrawal of troops (which had already begun) into the railway zone in proportion as the protection of lives and property of Japanese nationals was effectively assured, and that it hoped to carry out its intention in full as speedily as possible." In view of this declaration Briand drew the inference that "precautions required for security are precautions that can be taken in a very short time." Otherwise a promise could not be given to carry out evacuation in the shortest possible time. It was therefore clear that if negotiations must be undertaken with reference to treaties, to railways or to other questions it is obvious that such negotiations cannot be accomplished within a short period. Referring to the League Covenant he stated that under article 10 the member states agree to respect each other's territorial integrity and political independence. He also referred to the terms of article 2 of the Pact of Paris whereby all disputes of whatever nature shall only be settled by peaceful means. He thought that public opinion would find it difficult to admit that "military occupation could be assigned to the category of peaceable means." A prolongation of such occupation also means the prolongation of a feeling of uneasiness which has already lasted too long. This uneasiness is felt because at any moment something might happen "which would make it impossible for this problem to be solved either under the terms of the Covenant or under those of article 2 of the Pact of Paris." He would therefore appeal to the Japanese representative to make a sign of conciliation. He understood quite easily that the Japanese Government may desire to enter into negotiations concerning general issues between the two countries but he considered "if that were to be involved before evacuation takes place, then it is perfectly clear that we shall not be able to succeed." He understood that the Japanese representative had stated that this was not the case and that the Japanese were willing to negotiate on long-standing issues immediately after evacuation. In this regard he agreed with the Spanish representative as to the desirability of beginning negotiations on the very day on which evacuation is completed. It was his understanding that when the Japanese representative spoke of "fundamental principles" that they did not mean to extend these fundamental principles into wider questions but that they should be limited to the question

of security proper. However, he felt, in spite of the explanations which had been made, there was still uncertainty and that it would be preferable to have a clearer text.

Briand then went on to say that the Chinese Government has declared itself willing to accord the necessary protection and has further said that it is ready to discuss at once arrangements for the evacuation and taking over of the territory. It was his opinion that the arrangements could be made very quickly and this was the sort of thing which had been visualized when the Council considered the declaration made on September 30 by the Japanese representative. He admitted that Japan would be justified in making a reservation to the effect that this pledge of evacuation should be carried out providing the Chinese Government shows that it is really prepared to grant those conditions of security. He therefore thought announcement that military pressure was about to cease would have considerable effect in improving the situation in regard to security and that relations would at once be better. He therefore appealed to the Japanese representative to accept the draft resolution proposed by the Council after further explanations if necessary.

The Japanese representative replied:

"To my great regret I am unable to accept the draft resolution which has been submitted by the President because as I have already explained, it does not in our view adequately safeguard the lives and property of Japanese nationals for which the Japanese Government is responsible.

May I be allowed to suggest again as representative of Japan that the Japanese Government has no intention of settling the present difficulties by military forces. Its only desire is to make certain that protection [of its nationals] is effective."

The Spanish representative then made a final effort to secure some concession from the Japanese. He declared that the debates had been rendered difficult by the fact that the phrase "fundamental principles" had neither been explained nor revealed to the Council. He quoted a passage from the preamble of the Covenant regarding open relations between the nations and expressed himself as greatly disappointed by the attitude of the Japanese Government in not revealing exactly what it desired. After reviewing the Japanese thesis regarding security he would ask whether the Japanese delegate would not be prepared to withdraw his proposal "if it were provided that both parties would give a solemn undertaking that on the very day that evacuation was concluded negotiations would be opened on all questions which are pending and at issue between the two countries". In his opinion the effect of such a declaration would be only of such a kind that "security would be adequately assured and that evacuation would thereby become possible".

Yoshizawa responded:

"In the view of my Government the fundamental principles mentioned in our counterproposal should not be set forth in the resolution; nor in our view should the details of these fundamental principles be discussed at the Council table. These are matters which should be discussed between the two countries.

The Spanish representative said that these principles do not appear to link up directly with evacuation or security. That view unfortunately is not the view of my Government which regards it as absolutely necessary to obtain an agreement beforehand in which these fundamental principles will be set forth.

I therefore regret that I am unable to withdraw the words 'fundamental principles' as contained in our counterproposal."

In conclusion Briand drew the attention of the Japanese Government to the fact that "it is a delicate matter, even an impossibility, for the members of the Council to accept the inclusion in a draft resolution of a reference to fundamental principles which they do not know, without having the right to formulate those principles or to discuss them. It is really asking them to make a sacrifice which goes beyond the bounds of the possible. I do not think that there is any member of the Council that could agree to this without [knowing?] what are those fundamental principles."

The Council then adjourned until 4 this afternoon.

GILBERT

793.94/2323 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 24, 1931—6 p. m.

[Received 8:22 p. m.]

248. My 247, October 24, 3 p. m. To allow last-minute negotiations by Briand with the Japanese representative, the meeting which was scheduled for 4 p. m. today was deferred until 5 p. m. The suggestion Briand put forward was for the Japanese representative to append a reservation to the draft resolution of the Council to the effect that, should the evacuation conditions not be fulfilled by the specified time (see paragraph 4 (a) of said resolution; my 242, October 22, 6 p. m.), the Japanese might put off their evacuation pending fulfillment of these conditions. The French Ambassador in Japan had sent Briand a telegram to the effect, I understand, that Baron Shidehara had agreed to accept the Council's resolution with this reservation. After asking for half an hour to consider this, the Japanese representative refused.

GILBERT

793.94/2324 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 24, 1931—10 p. m.

[Received 11:33 p. m.]

250. Consulate's 247, October 24, 6 [3] p. m. The Council convened at 5 p. m. and immediately heard an announcement from Briand that the conferences which he had had this afternoon with the Japanese representative had not led to an agreement. This was followed by a declaration on the part of the Japanese representative restating briefly the Japanese position and the inability of his Government to accept the draft resolution of the Council.

The Japanese counterproposal was first put to a vote and rejected 13 votes to 1, Japan voting in favor. A vote on the draft resolution was taken by roll call and was adopted by 13 votes to 1, Japan voting against.

Briand then expressed his regret that unanimity could not be obtained and went on to point out some of the difficulties in the settlement of this question and the success of the League in confining the conflict within its present limits and eliminating the threat of war. He then spoke as follows:

"May I say how touched we have been and how grateful we are for the assistance which has been given us throughout by the great Republic of the United States of America. From the very outset the United States Government associated itself with our efforts and exchanged communications with us. Within the limits which it associates itself and in connection with those points which concerned it—that is to say, confining its attention to the Pact of Paris, of which it was the initiator—the United States Government gave its cooperation within those limits when asked. I should like to ask the representative of the United States to convey to his Government our warm thanks for the assistance which has thus been given us within these limits and to say that the moral effect of their support has contributed greatly to circumscribing the conflict."

After expressing the hope that between now and November 16 the conflict will be settled, Briand added that it should be understood that the resolution which had just been voted upon does not supersede the Council's resolution of September 30.

In the exchange of felicitations that took place at the conclusion of the meeting the representative of Norway associated himself in what Briand had said regarding the United States. I replied to these remarks as follows:

"I take this occasion to thank the President of the Council for the words he was kind enough to address to me earlier this afternoon, and also for those spoken by the representative of Norway. These I shall have the honor of transmitting immediately to my Government."

Regarding the United States, Madariaga spoke as follows:

"I venture to express the hope that we may have reached complete unanimity by the next meeting. I would like finally to be permitted to associate myself with what the President has said on the subject of the collaboration so valuable for us, of the Republic of the United States, and to hope that if unfortunately the Council should have to continue its work in this affair, this collaboration will be again assured us."

In this regard Sze said:

"May I also join in with my colleague from Norway in expressing our deep gratification in having the cooperation of the representative of the United States at the Council.[""]

The Chinese delegate also expressed himself pessimistically regarding an improvement in the situation in Manchuria in view of the Japanese insistence upon negotiations which China will not enter upon until the evacuation of the troops. Considered the period of adjournment to November 16 too long and reserved the right to request the calling of an earlier meeting should the evacuation not proceed in accordance with the hope expressed by Briand.

GILBERT

793.94/2325 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 24, 1931—midnight.

[Received October 24—10:50 p. m.]

251. This evening at the Council's final session Yoshizawa called on me and had a great deal to say regarding the friendly relations between Japan and the United States. He hoped that no misunderstanding remained in regard to his Government's position on American association with the League Council. This he emphasized by adding that Americans understood China, Japan, and the Manchurian situation better than did any other people, even the British, and that in particular you grasped the situation better than did Briand. His statements conveyed this meaning, though of course they were not so direct as the foregoing.

Yoshizawa then declared the position of the Council in this matter to be perfectly sound and wholly in accordance with its obligations under the League Covenant, of which Japan was a signatory, but the situation in Manchuria was "peculiar".

Then he went on to reveal to me the now famous fifth point of the Japanese demands. This statement by him agreed substantially with

what I reported to you on the recent conversation between Yoshizawa and Drummond.²⁸ Yoshizawa said the reason he had not disclosed this fifth point to the Council was because his instructions did not permit him to do so. He added that, if he had done so, the Chinese representative would have challenged the validity of the so-called railroad treaties and probably would have suggested their submission to the Permanent Court at The Hague; while Japan would be unwilling for them to be taken before the Court, since its decisions would be theoretical, and the fact that China would not live up to treaty provisions was a practical question.

I need scarcely say that in this conversation I maintained the role which you assigned to me in this whole matter. However, I did take occasion to assure Yoshizawa that I had taken no more part in the private Council meetings which I had attended than I played in the public meetings; that, in other words, following the first public meeting attended by me, I took no part at all except as required by the dictates of courtesy, as he was able to note, and this was something quite different from participation in discussions.

GILBERT

793.94/2558

The Chargé in Japan (Neville) to the Secretary of State

No. 374

TOKYO, October 24, 1931.

[Received November 9.]

SIR: I have the honor to report that Mr. Salisbury left Tokyo, in accordance with the Department's telegram No. 177 of September 29th, 6 P. M., on the morning of October 2nd. He arrived at Changchun at 1 P. M., October 4th, where he met Mr. Hanson. The rest of that day and the one following they spent in investigating conditions at Changchun and the nearby places of Nanling and Kuanchengtze. On the morning of October 7th they went to Kirin and the following afternoon proceeded to Tunhua, arriving again at Kirin on the afternoon of October 9th. On the morning of October 10th they again went to Changchun and the rest of that day and most of the eleventh was spent in further work there. At 4:30 in the afternoon of the 11th they started for Taonanfu, reaching there early in the morning of the 12th. They left Taonanfu that night for Mukden, where they arrived early in the afternoon of the 13th, having spent four hours at Ssuingkai on the way. On the afternoon of the 14th they proceeded to Newchwang (Yinkou) and spent that evening and most of the following day studying the situation there. They arrived again at Mukden at 8:00 P. M., on the 15th, and left there three hours later for

²⁸ See telegram No. 245, October 23, 6 p. m., from the Consul at Geneva, p. 299.

Antung, where they spent October 16th, returning by the night train to Mukden. The 17th, 18th, and 19th were spent at Mukden investigating conditions there and preparing a final telegraphic report covering the entire trip. On the 20th each officer started for his respective post, Mr. Salisbury arriving at Tokyo on the morning of October 23rd.

There is enclosed a copy of Mr. Salisbury's report of his investigation.

Respectfully yours,

EDWIN L. NEVILLE

[Enclosure]

Report by the Second Secretary of Embassy in Japan (Salisbury)

I. BRIEF OUTLINE OF JAPANESE MILITARY ACTION
FROM SEPTEMBER 18TH

Between ten and ten-thirty on the night of September 18th, according to the Japanese military, some Chinese set off an explosive on the tracks of the South Manchuria Railway just north of Mukden. This precipitated a clash that resulted in an attack by the Japanese on the Chinese North Barracks. During the remainder of that night and the following day, the Japanese military occupied the cities of Mukden, Changchun, Antung, and Newchwang (Yinkou). On September 21st the Japanese military occupied the city of Kirin and on the 22nd Chengchiatun, thereby making ineffective for use by the Chinese those Chinese railways that parallel the South Manchuria Railway on the east and the west. Between September 22nd and 25th troops occupied Tungliao, Tunhua, and Taonanfu, cities located on the Chinese parallel lines, but withdrew from them by October 5th. Following the occupation of these cities, the most important action by the Japanese military was the bombing of Chinchow where Generals Chang Hsueh-liang and Chang Tso-hsiang were attempting to reestablish the Government that had existed at Mukden prior to the Japanese military activities. Other military action by the Japanese has continued sporadically to the present time to quell the activities of bandits whose number had been augmented by the Chinese troops that had fled before the approach of the Japanese or had been dispersed.

II. CAUSES OF THE ACTION OF THE JAPANESE MILITARY

A clash in Manchuria between Japanese and Chinese forces was inevitable. The Japanese had long been aggravated by Chinese *intransigence*. The Chinese would not—wilfully would not, from the Japanese point of view—come to a conclusion with the Japanese in negotiations over problems that affected legitimate Japanese economic

development in Manchuria. Among the problems which the Japanese were anxious to have solved were those of taxation, land rights, Koreans in Manchuria, the boycott of Japanese goods, and the construction of railways by the Chinese allegedly in contravention of existing agreements. In addition to these more fundamental problems, there had been during the months preceding September 18th an increasing number of occurrences, such as the murder of Captain Nakamura and his two companions, which had added to Japanese dissatisfaction.

The Japanese military had further reasons for discontent. They believed that the conciliatory policy of the Japanese Foreign Office with respect to Manchuria was mistaken and they felt that their prestige had been lowered through it.

Mr. Hayashi, Japanese Consul General at Mukden, stated that in July of this year he informed Baron Shidehara, the Japanese Foreign Minister, that, although the conciliatory policy should be adhered to, a clash was inevitable. He patently regretted, however, that the pretext seized upon—or manufactured—by the military was unconvincing and trivial.

III. AIMS OF THE JAPANESE MILITARY

The only frank Japanese avowal of the immediate aim of the Japanese military was that of Lieutenant-Colonel Iwata, commander of the Japanese troops at Tashihchiao and at Newchwang (Yinkou). He told us that Newchwang had been occupied by the Japanese, not to protect the Japanese residents, as they had not been in danger, but to disperse Chang Hsueh-liang's troops—of which there had been 500 at Newchwang—and to destroy his power. He added that these were also the reasons for the taking of Changchun, a very different but more credible explanation than the one we had heard at the latter city.

There seems to be no question that the Japanese military believed that Chang Hsueh-liang's power was inimical to a favorable solution of a number of outstanding questions. They decided to destroy this power in the interest of the Japanese. Both Chinese and Japanese in Manchuria agree on this point, and the bombing of Chinchow can be adequately explained only by the fact that Chang Hsueh-liang had set up his government there. The military probably felt, too, that only by some such action could they restore their prestige which they thought had been impaired. How much further the ambition of the Japanese military may have extended will be discussed subsequently in this report.

IV. JAPANESE EXCUSE FOR MILITARY ACTION

With the exception of the military commander at Newchwang already quoted, all Japanese military and civil officers with whom we

talked claimed that the extended military action was necessary to safeguard Japanese lives. They insisted that once news of the clash in Mukden was received the Chinese troops would have attacked Japanese residents had they not been forestalled by the Japanese military.

V. VALIDITY OF THE JAPANESE EXCUSE

In no place did we find the Japanese excuse convincing. In places outside of Mukden, the Chinese attitude invariably was: "Why did the Japanese come here? This is a Mukden affair and should have been settled at Mukden." Wherever they were not surprised and fired upon by the Japanese without warning, the Chinese troops either fled or surrendered their arms without resistance. We were told by many Chinese that orders had sometime previously been issued to all Chinese troops not to resist in case of Japanese aggression, and the truth of this report seems to have been borne out wherever the Chinese troops had a chance to act in this sense. If such an order had been issued, it would seem that a command as efficient as the Japanese command probably knew of it. Every place which Japanese troops occupied had strategic value and such a place as Harbin, with 4,000 Japanese residents, received no military protection while Tunhua with 18 Japanese residents and Taonanfu with 5 were occupied. Of all the Japanese we asked with regard to the reasons for the non-occupation of Harbin, although the Japanese residents there were so uneasy that many left the city, only the commander of the Japanese troops at Newchwang had a definite answer. He said that occupation of Harbin would have created complications with the Russians. To convince us of the danger to the Japanese, both at Changchun and Newchwang, we were told of trenches the Chinese troops had recently dug. At Changchun these trenches were very close to the Kuanchengtze barracks and could have been used only in defence (though they were not so used in the recent clash). As the trenches at Newchwang afforded no protection from approach of an enemy by railway (the natural way for Japanese to approach), they were undoubtedly built for protection against bandits, the number of which has increased considerably in that vicinity during the past year.

a. At Mukden.

The accounts of the Japanese military of what occurred near Mukden on the night of September 18th are so very contradictory and their protestations of Chinese culpability so elaborate that it seemed to us not only were the initial events of that night not as the Japanese military explained them but that the Japanese attack on the North Barracks came as an almost complete surprise to the 10,000 Chinese soldiers occupying them. (As the Consulate General at Mukden has

already reported the initial incident, it seems unnecessary for me to give reasons for disbelief.) Admitting, however, that the Japanese version is correct, military action could have been stopped following the death of the three Chinese, who were alleged to have caused the explosion, without dishonor to the Japanese and without danger either to Japanese troops or civilians. Colonel Shimamoto, who commanded the Japanese troops in their attack on the barracks, told us that after a Japanese lieutenant and six soldiers had pursued the alleged perpetrators of the explosion, two or three companies of Chinese troops came out of the barracks to aid their countrymen, only to retreat into the barracks before the approach of a Japanese company. Until this time there had been no Japanese casualties. When Colonel Shimamoto was asked why the Japanese did not allow hostilities to stop at this point, he said that once the retreating Chinese had informed the remaining 10,000 fellow soldiers of the affair they would have poured out and annihilated the Japanese. Considering that the 10,000 Chinese were apparently unprepared to resist the subsequent attack by 600 Japanese, during which 300 Chinese were killed and only 2 Japanese, it would seem that they had had no intention of leaving their barracks to attack the Japanese.

b. At Changchun.

In the vicinity of Changchun, the only place besides Mukden where there was fighting, there would have been no clash if the Chinese had not been attacked while they were asleep. Both Japanese and Chinese informants stated that the Chinese troops were asleep. The Japanese also admit that no attempt was made beforehand to effect the surrender of the Chinese troops, the Japanese again claiming that military tactics demanded an "offensive defensive".

There were four separate "battles" in the vicinity of Changchun: two at Nanling, three miles south of Changchun, one at Kuanchengtze, three kilometres north of Changchun, and one at the barracks of the Chinese railway guards at the Changchun station of the Kirin-Changchun Railway.

Major Hosoki, our military guide there, told us that news of the fighting at Mukden was received at Changchun at 12:15 and that at 1:30 A. M. all the troops at Changchun were ordered to go to Mukden to assist. (As the departure of these troops, numbering 1,000, would have left only 100 railway guards to protect the Japanese residents of Changchun, according to the Japanese consul there, it would seem to show that there was no especial concern regarding their safety.) At 3:50 or 3:55 A. M. word came from Mukden that the assistance of these troops was not necessary. 200 troops were then sent against the artillery barracks at Nanling, while 200 other troops were despatched against the infantry barracks at Kuanchengtze.

According to the Japanese military: the troops sent against the artillery barracks at Nanling reached there about 5:00 A. M., where there were approximately 500 Chinese soldiers. By 8:00 A. M., the 36 cannon and the barracks had been destroyed and the Chinese had fled. The Japanese then retired to a nearby village to rest and dress their wounds. At 10:00 A. M., 200 Japanese reinforcements having arrived from Kungchuling, south of Changchun on the South Manchuria Railway, an attack was made on the infantry barracks at Nanling, where there were from 1,500 to 1,800 Chinese troops.*

The curious point about this battle at the Chinese infantry barracks at Nanling is that, although these barracks are only two or three hundred feet from the artillery barracks, the infantry did not come to the support of the artillery but waited quietly in their barracks until ten o'clock when the Japanese attacked them and, after fighting until 2 P. M., put them to flight.

Both at Mukden and at Changchun one felt distinctly that the Japanese wished to make it appear that the resistance of the Chinese had been very strong and that only severe fighting had quelled them. One Chinese told us that the infantry had fled, as soon as the artillery was attacked, as the Chinese cavalry in contiguous barracks had fled. Remembering the behavior of Chinese troops elsewhere, it is difficult to believe that the Chinese infantry waited in their barracks until 10:00 A. M. while the artillery was fighting and when they knew that probably they would be attacked. Before this ten o'clock battle, if it occurred, no effort was made by the Japanese, according to Major Hosoki, to have them surrender. The indications of severe fighting at the infantry barracks cannot be taken as proof that severe fighting actually did occur since the Japanese military are not above the suspicion of having manufactured evidence, as it is alleged, with some reason, they did at the railway tracks at Mukden.

At the barracks at Kuanchengtze there seems to have been really strong resistance, which can be explained by the fact that, not only was it a surprise attack, but the building in which the 500 to 600 Chinese infantry were housed was a much stronger building for purposes of defence than the other barracks where fighting occurred. Also, here they were under fire from at least three sides and the chance of escape was lessened. The total number of dead, according to Japanese figures, in the fighting at Nanling and Kuanchengtze was: Japanese, 68; Chinese, 216. Of the Chinese, 180 were killed at Kuanchengtze.

I cannot but believe that, had the Chinese at Nanling and Kuanchengtze been given warning, they would either have fled or submitted peacefully.

*When figures in this report differ from figures in the telegrams we sent, it is usually because later we received what seemed to be more accurate information. [Footnote in the original.]

The attack by Japanese troops on the barracks of the Chinese railway guards at the Changchun Station of the Kirin-Changchun Railway was certainly not to protect Japanese residents but to gain control of the telegraph office of that station. Here fighting lasted for only a very few minutes and there were no casualties on the Japanese side. Whether there were or not on the Chinese side, we were unable to learn.

c. At Other Places.

The 7,000 Chinese troops at Kirin retreated from the city the day before the arrival of the 200 Japanese troops. The withdrawal of the 1,000 Japanese residents would have been less expensive, it would seem, and would have had less serious effects on the ultimate maintenance of order than occupation of the city by Japanese troops.

At Antung there were no Chinese troops, only 600 Chinese policemen. These permitted themselves to be disarmed without offering resistance. The nearest troops (several hundred at Fenghuangchien) were disarmed without disorder and sent to Mukden.

At Newchwang about 300 Chinese troops and 800 Chinese policemen were disarmed peacefully. The remaining 200 Chinese soldiers of that city fled, having been outside of Newchwang hunting bandits at the time of the arrival of 300 Japanese troops.

VI. THE OPPORTUNE TIME CHOSEN FOR ATTACK

The time chosen by the Japanese military for widespread action was very opportune for its success. How much thought was given to the points that follow below it is, of course, impossible to say.

(a) The strongest Chinese officials of Manchuria were absent. Generals Chang Hsueh-liang, Chang Tso-hsiang of Kirin, and Wan Fu-lin of Tsitsihar were all in Peking. There was no official of their power or influence left in Manchuria. Their absence rendered organized resistance difficult, continuance of effective government impossible and the formation of any new government improbable unless with the support or acquiescence of the Japanese.

(b) It seems credible, as already stated, that the Chinese troops in Manchuria had received orders that in case of Japanese aggression they should not resist.

(c) The Nakamura case was on the verge of a satisfactory settlement, which would have lessened public sympathy for the action of the Japanese military if undertaken subsequently.

(d) The Japanese military may believe that this recent action, coming before the meeting of the Disarmament Conference, will make less likely any serious scaling down of the strength of the Japanese army.

(e) Marshal Chang Hsueh-liang's increasing intimacy with Peking and Nanking was tending to orient Manchuria politically toward China south of the Wall, a tendency definitely destroyed to all practical intents by the action of the Japanese military.

(f) The other Powers were seriously occupied in combatting depression.

(h) [*sic*] The Japanese people were growing restive under the large expenditures for the military; this restiveness may very possibly decrease before the people's pride in the efficiency of their army.

VII. THE PLAN OF THE JAPANESE MILITARY

It is apparent that the Japanese had ready a well-worked-out plan of action in Manchuria, as any efficient army in the world probably has plans prepared for almost any contingency. That such a plan existed is indicated by the rapid, unified, and strategic action that followed the Mukden clash. It would seem to an observer that the plan consisted of four distinct steps, the first two of which were worked out fully, the third initiated but for some reason abandoned, while the fourth, apparently, is now in progress.

(a) The first part of the plan began with the alleged explosion on the tracks near Mukden and ended the following day when the Japanese military had gained control of the strategic cities of the South Manchuria Railway area, namely, Changchun, Mukden, Antung, and Newchwang. With these cities in control the Japanese army was reasonably free from any fear of attack in the South Manchuria Railway area and was in a position to administer it as they wished. All action in this area was initiated by the Japanese military before dawn on September 19th.

(b) When the control of the South Manchuria Railway area was consolidated, the second part of the plan was initiated; namely, the seizure of control of the Chinese railways that parallel the South Manchuria Railway on the east and the west. On September 21st, they took the city of Kirin, along with the Kirin-Changchun Railway. Possession of Kirin, with Mukden already occupied, gave the Japanese military the control of the Kirin-Hailung-Mukden Railway (Shen-Hai and Kai-Ki [*Ki-Hai?*] Railways), which parallels the South Manchuria Railway on the east and is a line built by the Chinese under strong Japanese protest. The following day (September 22nd) Chengchiatun was taken, thereby giving the Japanese control of Ssuningkai-Chengchiatun Railway. This made it impossible for the Chinese to use effectively the Chinese railway lines that parallel the South Manchuria Railway on the west, namely, the Tahushan-Chengchiatun and Chengchiatun-Taonanfu Railways. (The same day the Japanese troops advanced also to Tungliao, south of Chengchiatun

on the Tahushan-Chengchiatun Railway, but withdrew on the 23rd, the day following.) That these occupations were for strategic control becomes apparent when one realizes that at Kirin there are only 1,000 Japanese residents and at Chengchiatun only about 150 Japanese residents; while between Ssuningkai and Chengchiatun the only town with Japanese residents is Pamiencheng, and they number about 20.

(c) The third part of the plan is difficult to understand, for apparently it was abandoned almost as soon as initiated. From Kirin and Chengchiatun, through control of which the Japanese had rendered the parallel lines practically useless to the Chinese, Japanese troops were moved along Chinese lines. Mention of the advance south to Tungliao on the 22nd, followed by withdrawal on the 23rd, has already been made. On September 23rd, 200 Japanese troops advanced from Kirin to Tunhua, occupying that city and the line connecting it with Kirin. On September 25th Japanese troops were moved up to Taonanfu from Chengchiatun, whence they were withdrawn on the 26th. The troops at Tunhua were withdrawn to Kirin on October 5th. With regard to these movements, one can only be certain that they were not made for the protection of Japanese residents, as at Tunhua there were only 18, and at Taonanfu 5 at this time. Both places are of strategic importance, Tunhua being the point from which the Japanese have long desired to construct a railway line across to Kainei on the Korean border. (There was no evidence that such construction had been begun at Tunhua during the several days of Japanese occupancy.) From Taonanfu control of Tsitsihar, the capital of Heilungkiang, could be obtained with comparative ease, if desired and if the Russians would not object. Such far-flung control by Japanese troops would, however, weaken Japanese strength, since apparently the Japanese action has been carried on without increasing the number of troops permitted in Manchuria under treaty with China. Further advance by the military, it is also believed, was opposed by the Tokyo Government.

(d) The fourth step of this plan appears to be the setting up of political administrations independent of infra-mural China and of the former rulers of Manchuria. This was done at Kirin, where Hsi Ch'ia, formerly Chief of Staff of General Chang Tso-hsiang, formed an independent government either at the request of the Japanese or at their command. At Mukden the Japanese several times requested Mr. Yuan Chin-kai to form a government, but he consistently refused. On October 18th and 19th there were reports that General Chang Hai-peng, Garrison Commander at Taonanfu, was marching on Tsitsihar and would, if he gained control there, be amenable to the Japanese. (General Chang Hai-peng told us, however, when we visited Taonanfu that he was independent of the Japanese.) Local governing

bodies were set up by the Japanese at such places as Mukden and Kaiyuan, but as this information was obtained from the American Consul General at Mukden and as he has already reported regarding it, discussion of this phase is not included here. In the cities which we visited that were occupied by the Japanese, local governments had not been set up, governmental establishments being carried on by Chinese officials under Japanese supervision or control. This situation will be discussed more in detail, however, in a subsequent part of this report.

On October 18th we were told by Mr. Yuan Chin-kai that he expected that the ex-Emperor of China would be set up at Kirin within thirty days under the aegis of the Japanese. Kirin will be chosen because it has now a government independent of the rest of China. He went on to say that Heilungkiang will subsequently give allegiance, for General Chang Hai-peng of Taonanfu will by that time be in power at Tsitsihar, and later Fengtien will become a part of the restored Emperor's "empire". Mr. Yuan apparently felt that this would be a satisfactory solution of the present situation and did not believe that the new state would go the way of Korea. As I could obtain no definite information with regard to this alleged plan of the Japanese military and as Consul General Myers informed me that he is reporting to the Department regarding this development, I shall not discuss the matter further here.

In short, however, it is apparent that the fourth part of the plan of the Japanese military is to see that Manchuria will be governed independently of the rest of China by Chinese who will be amenable to Japanese suggestion.

VIII. TREATY INFRACTIONS

The number of troops employed by the Japanese in Manchuria since September 18th has apparently not exceeded the number permitted under Article II of the Additional Articles of the Treaty of Peking of 1905.²⁴ All important military actions of the Japanese since September 18th, however, have been outside of rights conceded to the Japanese in existing treaties and agreements. From all that we learned, it would seem that the tactics used by the Japanese military were those that would be employed, subsequent to a declaration of war, against an enemy capable of competent strategy and action. There would seem to be no other explanation for the surprise attacks of the Japanese against the Chinese troops at Nanling, Kuanchengtze, and possibly at Mukden, the surprise entries into Newchwang and Antung, the seizure of strategic points on the Chinese parallel railways, the bomb-

²⁴ For texts of treaty and additional articles signed at Peking, December 22, 1905, see *Foreign Relations*, 1906, pt. 2, pp. 996 and 997.

ing of Chinchow, the taking over of control of Chinese telegraph and telephone wherever possible, and, in some instances, censorship of the posts.

IX. BEHAVIOR OF THE JAPANESE MILITARY

At no place which we visited did we hear of "atrocities" on the part of the Japanese. Although the attacks at Nanling, Kuanchengtze, and Mukden were unnecessary, they were apparently governed by recognized rules of warfare, with the exception that no ultimatum had been sent nor a declaration of war made. Everywhere the Japanese military seemed desirous of making a favorable impression on Chinese civilians. Statements included in the proclamations posted by the Japanese military in the occupied cities support this view. In one of them was the declaration that "a benevolent government" would be instituted, in another that the Japanese troops had come to protect both Japanese and Chinese residents, and in a third that Japanese gendarmes had assumed responsibility for peace and order. At Antung, it is true, four Chinese were killed, but rather through misunderstanding than intention. The Chinese who told us of this incident seemed to bear no resentment. A Chinese policeman, having had his rifle returned to him by the Japanese, shot it three times at nothing in particular. The sound of the shots, however, created a panic among some Chinese. They rushed into a courtyard of a silk mill and there armed themselves with whatever happened to be at hand, thinking that they were about to be attacked. Japanese troops, intending to keep order, broke into the courtyard and apparently being attacked by the frightened Chinese—or believing that they were about to be attacked—fired and killed four. At Nanling the destruction of the artillery barracks appeared to have been more extensive than necessary. The military officer who accompanied us there explained that, as Chinese soldiers were fleeing with bundles of their belongings slung over their backs, Japanese soldiers set fire to the bundles. These burning bundles ignited the buildings. At Kuanchengtze we were told that a wounded Chinese policeman (or railway guard) cursed at the Japanese and was then killed by one of them. The dropping of two low explosive bombs at Taonanfu, without other reason than to frighten the inhabitants, might have resulted in unnecessary death if someone had been at that time in the toilet of the railway station. The bombing of Chinchow would seem to be a nearer approach to an atrocity on the part of the Japanese than any other acts in Manchuria since September 18th.

X. JAPANESE CONTROL OF OCCUPIED CITIES AND RAILWAYS

In the cities we visited that were still occupied by the Japanese, we found that practically all principal offices were under the control or the

supervision of the Japanese military and were practically cut off from free communication with other parts of China, including Manchuria. At Changchun one could telephone only in the Japanese language. At Antung the Chinese telegraph office had been closed and messages could be sent only through the Japanese telegraph office. At Mukden and Antung there was a censorship of mail, at Mukden since October 4th or 5th and at Antung since October 12th or 13th. Delivery of newspapers from Shanghai or Tientsin was not permitted and letters addressed to Chinese officials were liable to censorship. Chinese radio, in any of these cities where it had been established, was not in operation. The local press at Mukden was under Japanese control and of the two local Chinese papers at Antung one had suspended publication following the Japanese occupation and the other had become entirely innocuous. New airfields at Changchun and at Kirin were under construction by the Japanese. We were told that one was also being made at Tashihchiao, the junction of the main line of the South Manchuria Railway and the branch to Newchwang, but we were unable to investigate this personally. In each city the Chinese police and railway guards were under Japanese control or supervision. In some places there had been a partial or complete return to them of their arms; in other places they were still unarmed, as, for instance, the Chinese railway guards along the Kirin-Changchun Line.

At Kirin, we were informed, banks were permitted to be open for a few hours each day but the Governor was not allowed to draw funds with which to pay the disbanded soldiers outside the city. At Mukden the banks were at first closed; subsequently several Chinese banks resumed business, but we were told that Chinese government funds were kept sealed.

Officials were under close supervision. The magistrate at Newchwang had been under "house arrest" for 22 days from September 19th, his papers having been thoroughly investigated and ransacked during that time. Japanese gendarmes were occupying a part of the offices of the magistrate at Antung. The new governor of Kirin, having been put into office by the Japanese, was obviously under close Japanese surveillance. The new magistrate and mayor at Changchun were appointees of this Japanese-controlled government at Kirin. We learned also of a number of arrests of Chinese officials with whom the Japanese were displeased. The Chinese postmaster at Kirin was arrested within a few hours after having called on us, but was released a day or two later. At Mukden we were told that the Civil Governor, the Commissioner of Education, and the Commissioner of Industry had been arrested and were still under arrest. In this connection, it may be of interest that Mr. Lung Hou, former official of the Kirin Government, fled secretly from Kirin within two or three hours after his

conversation with Mr. Hanson. He had said that he expected to leave in a few days, and much of his baggage was already packed. Apparently, he thought it would be wiser to leave immediately. Chinese of Kirin believed that he would not escape because the trains were watched, but subsequently we learned that he had reached Harbin safely.

The Kirin-Changchun and Ssuping kai-Chengchiatun lines were under Japanese control, with Japanese military at the larger stations, over some of which—on the former line—the Japanese flag was flying. The Mukden-Hailung-Kirin Railway was, when we left Mukden, being run by Chinese under Japanese financial supervision. This line cannot connect, as formerly, with the Mukden-Peiping line, for the tracks where the latter runs under the South Manchuria Railway have been torn up for a distance of perhaps two or three hundred feet—"to prevent the entry into Mukden of Chinese troops", we were told. The Newchwang terminus of the Chinese Kaopangtze-Newchwang line was in the hands of the Japanese military and trenches had been dug at the end of the station facing toward Kowpangtze. We were told on what seemed to be fairly reliable Chinese information that the tracks of the Tahushan-Chengchiatun Railway had been destroyed by Japanese just south of Tungliao, but we were unable to get this report confirmed at Mukden. In short, most of the railways of South Manchuria are now under Japanese control or supervision, or, if not, at least practically useless as far as the Chinese are concerned.

XI. THE CHINESE ATTITUDE TOWARD THE JAPANESE

All of the Chinese with whom we talked were very much opposed to the Japanese occupation. Some were bitter and all seemed resentful. We frequently heard expressions of astonishment that the Japanese military action had extended beyond Mukden, since, they said, the affair concerned Mukden only and should have been settled there. We were told by those with whom we spoke that the only Chinese who might be satisfied with the new situation were some who would gain financially, while the uneducated classes were, not unnaturally, indifferent. It seemed that the great majority of the thinking classes of Chinese would prefer their own inadequate government to capable Japanese administration.

It did not seem that the resentment of the Chinese extended to the civilian Japanese residents, or, if it did, that they would dare attack them. For example, at Taonanfu, when we were there, there were only ten Japanese, employees of the South Manchuria Railway, in the city and no Japanese military. These Japanese cut the telephone wires that connect Taonanfu with the south and ran them into their office

building so that they only could telephone south of Taonanfu. Although the Chinese expressed dissatisfaction, they did not even attempt to cut the wires a second time so that at least these ten Japanese would also be unable to use the telephone. Japanese consistently said that withdrawal of the Japanese troops would endanger Japanese residents. Particularly at Kirin did such expressions seem sincere. When it is recalled that at Harbin and other places in China, where there are large groups of Japanese residents without Japanese military protection, no harm has come to the Japanese, it seems improbable that the Japanese civilians in the now occupied places would receive injury at the hands of the Chinese residents should occupation be abandoned. In the places which we visited, one did not feel that the resentment of the Chinese would subsequently take the form of attacks upon the Japanese civilians.

XII. JAPANESE WITHDRAWAL

Until October 19th, when we left Mukden for our respective posts, we could see no indications of intention on the part of the Japanese to withdraw effectively. It is true that two of the three companies that had occupied Newchwang had been withdrawn and that from Antung the Japanese troops had returned across the Yalu River to Shingishu. These withdrawals, however, were without significance, for it was apparent that in either place a platoon could continue to maintain as complete control as a battalion. It would appear that the Japanese military do not intend to abandon its present control until after a settlement of the principal problems that affect the Japanese in respect to Manchuria or until the formation of a government or governments amenable to Japanese wishes. Mr. Hayashi, Japanese Consul General at Mukden, said, on October 18th, that he believed that the Foreign Office at Tokyo was getting control of the situation, that the military were beginning to realize the true condition of affairs and the fact that there is such a thing as international relations, and that it intends to straighten out matters. I saw very little, if anything, that would seem to support this view.

The few Japanese gendarmes at Antung could be withdrawn immediately. There are no bandits operating in its vicinity as few, if any, disbanded soldiers have moved in its direction. The proximity of the railway guards at Antung and of Japanese troops at Shingishu would hold in check any recalcitrant Chinese. The Japanese military that are now in Changchun and its environs could also be withdrawn to the railway zone without danger to the lives of Japanese or Chinese residents. There is a total of from 50 to 70 Japanese military in the Chinese city of Kirin [*Changchun?*], Nanling, and Kuan-

chengtze. This force is not sufficient for protection, and in case of trouble troops from the railway zone could reach the scene of disturbance in a very few minutes. The airfield under construction at Changchun can scarcely be regarded as vital to the safety of the residents.

At Kirin, Chengchiatun, and Newchwang, however, the situation is different. The presence of bandits and of disbanded soldiers ready for participation in banditry would jeopardize the lives and property of both Japanese and Chinese residents were the Japanese troops to be withdrawn before adequate means of protection by the Chinese military had been instituted. At Kirin since September 19th, 800 men have been formed into a bodyguard for the new governor. This bodyguard, composed principally of new recruits, together with the few hundred Chinese police, would be scarcely adequate protection against the large numbers of bandits and ex-soldiers that are said to be in the neighboring hills. At Kirin, as well as at the other places mentioned, some sort of a competent Chinese defence organization would have to be formed before the withdrawal of Japanese troops could be made with safety. We did not feel that the Japanese residents would be in danger of attack by Chinese residents if the Japanese military withdrew. At Newchwang we were told by Chinese officials that many of the ex-soldiers would return immediately to their posts upon the evacuation of the Japanese troops. This seemed to us to be a reasonable view of the situation.

In the places which we visited it seemed that the local officials would begin to function as competently as usual after withdrawal of Japanese control, provided adequate Chinese military protection were assured. This may prove difficult to provide in many places. The problem seems to be a police rather than a military one. Manchuria has long been notorious as a bandit center. At present the dividing line between a soldier and a bandit seems not to be clearly drawn. The Chinese "armies" in Manchuria appear to be ex-bandits or potential bandits hired by the larger cities or districts for protection. Outlying small places may be attacked, or may pay bandits not to attack them. This situation could probably be taken care of by an adequate police or constabulary force. The provision of such force presents a political problem that is outside the scope of this report. I feel, however, that the question of adequate protection by Chinese will prove to be one of the great difficulties of Sino-Japanese negotiations.

Tokyo, October 24, 1931.

LAURENCE E. SALISBURY

793.94/2329 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 26, 1931—8 a.m.

[Received October 26—6:47 a. m.]

253. Drummond has handed to me for communication to you the following message from the Chinese Government dated October 23 which has been circulated to members of the Council:

The authorities at Kirin report that on Wednesday a Japanese airplane flew to Nunkingchiao and dropped six bombs causing heavy casualties. On the same day Japanese airplanes dropped five bombs on Ichienpu Railway station. There has been no withdrawal whatsoever from the occupied areas, but instead the situation has been aggravated by these bombings by Japanese planes.

GILBERT

793.94/2332 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, October 26, 1931—10 a. m.

[Received October 26—12:45 a. m.]

News of League action has been received here with feeling of gratification as Chinese believe that they have been vindicated before the world. All interest now centers in Japan and action which may be taken by Japan before reconvening of League Council on November 16th.

In view of above and in view of the fact that leaders locally are confining their interest to outcome of negotiations now being carried out with Cantonese leaders in Shanghai, which will doubtless result in changes of personnel in several of the Government Departments including the Ministry of Foreign Affairs, I propose, with the Department's approval, to proceed to Shanghai, taking my staff with me, there to await results with the intention of returning to Nanking by the 16th. It is my present plan to leave Nanking for Shanghai on October 29th. British, German and French Ministers are returning to Peiping.

JOHNSON

793.94/2333 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 26, 1931—1 p. m.

[Received October 26—11:20 a. m.]

257. The situation here reverts now to that prevailing in the period from September 30, the day the regular sessions of the Council adjourned, until October 13, the day the Council reconvened.

During this period, it will be recalled, acting under your instructions, I kept contact with Drummond, transmitted to you what information he gave me regarding the current situation involving China and Japan, and furnished him certain military information for his use, but which he was to regard as strictly confidential as to source.

I request instructions concerning the relations which you wish me to maintain here at this time.

Referring particularly to the so-called military information transmitted by me, I have sent you everything which I have obtained from "neutral sources" and all of any apparent significance from Chinese and Japanese sources. It has occurred to me that you may be receiving much of this material from American sources or from some of the diplomatic missions at Washington. In view of this, your special instructions on this point would be appreciated.

GILBERT

793.94/2333 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, October 26, 1931—7 p. m.

[Received October 26—12:55 p. m.]

(1) My British and French colleagues here are reporting this evening in identic words as under (2):

(2) President Chiang Kai-shek summoned the British and French representatives and myself (the German Minister having gone to Shanghai) to meet him this evening.

Chiang opened the discussion with an expression of his warm appreciation of the Geneva proceedings. Taking up the October 24 draft resolution of the Council, Chiang said China was determined to carry its terms out regardless of Japan's action in the matter. Accordingly he invited the three heads of Legation to nominate representatives who would observe the transfer of the evacuated areas, as provided in the draft resolution's paragraph 4, and to forward the names of these representatives. We said we could report immediately

to our Governments at home and with their sanction consider who should be sent. Chiang expressed the wish that each of us should nominate two representatives at least, civil and military, but the more we nominated the better it would be, and we should have them ready until required.

(3) For my part, I explained to Chiang that I would ask your instructions and let him know at once the American response to his invitation. Chiang desires the names of the foreign representatives to be published with those of the Chinese appointees.

(4) I informed Chiang I would leave for Shanghai, staying until about November 16, although at any time I would be available if he desired my presence in Nanking.

JOHNSON

793.94/2338 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, October 27, 1931—5 p. m.

103. For the Minister: Your October 26, 7 p. m., from Nanking. It is the Department's feeling that such action as may be proposed in respect of paragraph 4 of the resolution which was voted upon on October 24 by the League Council should be taken in the first instance either by the Council or by Governments members of the League of Nations. The position of the United States Government throughout this dispute has been and continues to be that, since the dispute was referred to the League by China, and since the League is treating the matter, this Government does not wish to cause confusion by taking, itself, an independent initiative and has been and is ready to reinforce so far as practicable the efforts of the League to adjust this dispute by peaceful means. This Government prefers, until specifically informed regarding action taken by members of the League in connection with paragraph 4 of the October 24 resolution, to refrain from commitment as to the request under reference.

STIMSON

793.94/2316 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 27, 1931—5 p. m.

397. Your 818, October 24, 11 a. m.²⁵

1. You may instruct Mukden to inform the radio corporation's representative at Shanghai that the question of the Mukden wireless station is receiving the Department's consideration.

2. The Embassy at Tokyo reported on October 20²⁶ that it had been informed orally by the Foreign Office that this station would soon be opened with South Manchuria Railway operators. Japanese Ambassador here told press that it would be restored to its owners. Instruct Mukden to report through you the present situation in regard to this station.

STIMSON

793.94/2332 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, October 27, 1931—6 p. m.

104. For the Minister: Your October 26, 10 a. m. Department approves your proceeding to Shanghai as proposed.

STIMSON

793.94/2333 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 27, 1931—7 p. m.

119. Your 257, October 26, 1 p. m. You should continue maintaining contact with Drummond and exchanging with him, under the same conditions as heretofore as to confidence, such information on developments in and respecting the China-Japan matter as may appear to be of significance.

In the interim preceding the Council's reconvening, it is suggested that unless data information seems to be of peculiar significance or timeliness, it may be forwarded by mail rather than by telegram.

STIMSON

793.94/2365 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 27, 1931—midnight.

[Received October 28—9:15 a. m.]

262. Late last night Drummond handed me a copy of a note from Sze to Briand dated October 24 and informed me of two conversations which have a relationship to the note in question.

1. Note from Sze to Briand. The text of this note is as follows:

"With reference to the negotiations [*observations*] on treaty obligations made in the Council this morning by the Honorable Delegate

²⁶ See telegram No. 189, October 20, noon, from the Chargé in Japan, p. 262.

for Great Britain, with which I am in hearty agreement, I am authorized by my Government to make the following declaration:

China like every member of the League of Nations is bound by the Covenant to a 'scrupulous respect for all treaty obligations'. The Chinese Government for its part is determined loyally to fulfill all its obligations under the Covenant. It is prepared to give proofs of this intention by undertaking to settle all disputes with Japan as to treaty interpretation by arbitration or judicial settlement as provided in article 13 of the Covenant.

In pursuance of this purpose the Chinese Government is willing to conclude with Japan a treaty of arbitration similar to that recently concluded by [*between*] the United States and China or to those concluded of recent years in increasing numbers between members of the League."

NOTE: As this will be circulated today to the Council it is not confidential. The delay in circularization has been due to obtaining Briand's concurrence.

GILBERT

793.94/2515

Memorandum by the Under Secretary of State (Castle) of a Conversation With the Japanese Ambassador (Debuchi), October 28, 1931

The Ambassador left with me the attached papers. He said that his Government was very unhappy over the final decision of the League of Nations, primarily, because they felt themselves unable to accept dictation as to the withdrawal of their troops before the 16th of November, and, secondly, because their fifth point was an essential part of the whole picture. The Ambassador brought out the fact that in giving me an outline of the five points, he had spoken particularly, as the fifth point, of all arrangements concerning railroads. This had been brought up with Mr. Briand and Lord Reading, both of whom had said that it would be impossible for the League to consider any inclusion of the railroad question and that the railroads must not be specifically mentioned. The Japanese then felt that by changing the wording of the fifth point to its present wording, that is, "respect for treaty rights of Japan in Manchuria", the League would be likely to accept, as the maintenance of treaties was one of its main interests. This, however, was not accepted, and at the last minute the League rushed through its resolution largely at the instance of Lord Reading.

On the first page of the memorandum given me by Mr. Debuchi, it will be noted that Sir Eric Drummond, on October 20, made a definite suggestion to Mr. Yoshizawa of certain points which might prove acceptable to the League. It is quite clear from what the Ambassador said that Mr. Yoshizawa took these points of Drummond's as completely official. He telegraphed them to his Government im-

mediately and received an answer from his Government on October 22nd, stating that the Japanese Government would accept. Mr. Yoshizawa hurried to Lord Reading with this acceptance, but Lord Reading refused to discuss the matter and the League passed the resolution, which we know, over Japan's protest. This has led in Japan to violent outbreaks against Great Britain.

No. 2 of the memoranda left me by the Japanese Ambassador is the statement of the Japanese Government issued on October 27th, which we have already seen. The Ambassador at this point stated that Mr. Yoshizawa had made a very serious error in not clearly stating in Geneva what Japan considered as fundamental. He said that there was no point whatever in making any secret of this since the news as to Japan's fifth point had already more or less leaked out. I gathered that Mr. Yoshizawa, in refusing to make this public and thereby creating a mystery was, if not actually disobeying his instructions, at least not seizing an opportunity which had been given him.

No. 3 of the papers left with me is Article 6 of a treaty concluded between China and Japan, September 4, 1909.²⁷ Mr. Debuchi pointed out on the map he brought ²⁸ just where this section of railroad continuing the Kirin-Changchun Railway to Huining was of very vital importance to Japan. He said that in spite of this article of the treaty, the Chinese have steadily refused to allow the railroad to be built.

No. 4 of the papers is part of a statement made by Mr. Hughes at the Washington Conference.²⁹ The Ambassador left this with me largely in explanation of the fourth point made by Japan in the statement given out as to effective protection in Manchuria of peaceful pursuits undertaken by Japanese subjects. Mr. Debuchi explained that these pursuits included the right to lease land for building purposes, trade and manufacture, for agricultural purposes and for general business purposes. It does not go beyond this. The Ambassador said that the reason point four was of importance was that the Chinese had consistently prevented wherever possible the Japanese subjects from having equal rights with others.

The question which the Ambassador brought up the other day as to ruinous competition among the railroads is covered in the first paragraph of the fifth paper attached. He said that the Chinese had built certain railroads which more or less paralleled the Japanese lines and were planning to build others contrary to the treaty, that Japan felt it essential, particularly in these days when railroads were not

²⁷ For full text of treaty, see *Foreign Relations*, 1909, p. 119; also printed in John V. A. MacMurray, *Treaties and Agreements With and Concerning China, 1894-1919*, vol. I, p. 796.

²⁸ Map not reproduced.

²⁹ Full text of statement printed in *Foreign Relations*, 1922, vol. I, pp. 361-362.

making money, that China should recognize these obligations and should not thus parallel the roads.

Attached paper No. 6 is a letter from Mr. Lamont, 1920, to the Japanese Banking group in the Consortium.³⁰ The Ambassador pointed out to me the various railroads mentioned in the three numbered paragraphs of Mr. Lamont's letter, some of them being already built, some of them partly built. He felt that this was a recognition of Japanese rights on these various railroads in that they were specifically excluded from the operation of the Chinese Consortium. He pointed out that Mr. Lamont in writing the letter said that the statement had the approval of the governments of the United States, Great Britain and France.

I told the Ambassador that a letter from Mr. Lamont could hardly be put in the same class as a treaty, and added that I did not know personally whether this Government had made any statement on the matter. He stated that he wanted to leave these various papers with me in order that as far as possible we might understand the Japanese point of view. He added once more the disappointment of the Japanese Government at the refusal of the League to consider the Japanese fifth point. I told him it seemed to me that this was natural, since the demand of the League was confined to the present emergency. What the League wanted, and, of course, what we wanted also, was to see Japan live up to the agreement it made on September 30th. I told him that the information we had from many sources indicated that instead of withdrawing the Japanese were consolidating their position out of the railroad zone with the apparent intention of retaining control indefinitely, that because this was a violation of treaties, it became inevitably of grave concern to the whole world. I spoke, for example, of the fact that in one or two places the Japanese seemed to be constructing winter barracks, which at least did not look like evacuation. The Ambassador said that it was true that in one place at least they had constructed wooden barracks of the cheapest kind, because the weather was already exceedingly cold and the soldiers could not sleep under tents. The Ambassador, of course, had not very much that he could say on this subject, and I told him that I was personally very unhappy about it, because we got very conflicting reports from Japanese Government sources, for example, and military sources.

He said that he wanted to ask one indiscreet question, and that was whether the League had asked this Government to associate itself with the resolution taken by the Council a few days ago and had asked us in addition to bring pressure to bear on Japan. I told him that the League had not asked us to associate ourselves with their action, and

³⁰ Letter of May 11, 1920, printed in *ibid.*, 1920, vol. I, p. 556.

if we felt it necessary to give advice and suggestions to the Japanese Government, it would be on our own initiative,—not at the request of the League.

W[ILLIAM] R. C[ASTLE,] JR.

[Annex 1]

ESSENTIAL POINTS OF THE SUGGESTION MADE BY SIR ERIC DRUMMOND,
OCTOBER 20, 1931

(Approved by Japan on October 22)

Evacuation and direct negotiations to proceed together.

1. Japan to evacuate as soon as possible.
2. China to provide security.
3. Direct negotiations for the above purposes.
4. The meeting of the Council to adjourn for three weeks (November 16).

ESSENTIAL POINTS OF THE RESOLUTION APPROVED BY THE MEMBERS OF
THE COUNCIL OTHER THAN JAPAN, OCTOBER 24, 1931

Evacuation before direct negotiations.

1. Japan to evacuate as soon as possible, not later than the date of the next meeting of the Council (November 16).
2. Direct negotiations, upon the completion of the evacuation, to settle all pending questions, especially the questions arising from the recent events as well as the questions relating to the railways in Manchuria.

[Annex 2]

*Statement of the Japanese Government, Issued at Tokyo, October 27,
1931, Relative to the Manchurian Situation*

1. On the 22nd of October, the Japanese representative in the Council of the League of Nations proposed certain amendments to the resolution then before the Council with regard to questions of (1) withdrawal of Japanese troops to the railway zone and (2) direct negotiations between China and Japan. However, these suggested amendments as well as the resolution itself fell through, having failed to obtain unanimous approval of the Council.

2. As has been repeatedly emphasized by the Japanese Government, the whole Manchurian affair was occasioned solely by a violent and provocative attack launched by the Chinese army on the railway zone. Certain small contingents of Japanese soldiers still remain-

ing at a few points outside that zone are insistently demanded by the danger to which a large population of Japanese in that region are exposed in life and property. The presence of such a limited number of troops is quite incapable of being represented as a means of dictating to China Japan's terms for the settlement of the present difficulties. Nothing is farther from the thoughts of Japan than to bring armed pressure to bear upon China in the course of these negotiations.

3. The Japanese Government have on various occasions given expression to their firm determination to suffer no abridgement or diminution of the rights and interests of Japan which are vital to her national existence and which are woven into the complex fabric of her political and economic relations with China. Unfortunately, the so-called "recovery of rights" movements in China have recently attained extravagant developments, while feelings antagonistic to Japan have openly been encouraged in text books used at various schools in China and have become deeply seated in the Chinese mind. In defiance of treaties and regardless of all history, vigorous agitation has been carried on in China with the object of undermining rights and interests of Japan, even the most vital. As things stand at present, the complete withdrawal of Japanese troops to the South Manchuria Railway zone under the mere assurance of the Chinese Government would create an intolerable situation exposing Japanese subjects to the gravest dangers. The risk of such dangers is clearly evidenced by past experience and by conditions which actually obtain in China.

4. The Japanese Government are persuaded that in the present situation the safety of Japanese subjects in Manchuria can hardly be ensured without provision being made to remove national antipathies and suspicions existing in the mutual relations of the two Powers. With this end in view they have already expressed in the note of the Minister for Foreign Affairs of October 9th to the Chinese Minister at Tokyo their readiness to enter into negotiations with the Chinese Government on certain basic principles that should regulate normal interrelationship between the two countries. That note was communicated at the same time to the Council of the League. Convinced that this method of procedure is alone calculated to open out a way to save the situation, the Japanese Government have consistently held to their proposals in that sense throughout the recent discussions at the Council of the League. The basic principles which they have had in mind relate to:

- (1) mutual repudiation of aggressive policy and conduct,
- (2) respect for China's territorial integrity,
- (3) complete suppression of all organized movements interfering with freedom of trade and stirring up international hatred,

- (4) effective protection throughout Manchuria of all peaceful pursuits undertaken by Japanese subjects,
- (5) respect for treaty rights of Japan in Manchuria.

The Japanese Government believe that all these points being in entire accord with the aims and aspirations of the League of Nations and embodying the natural basis upon which peace in the Far East must depend, will commend themselves to the approval of public opinion of the world. The refusal by the Japanese representative to lay these points on the table of the Council was due to the consideration that they should in their nature properly form the subject of negotiations between the parties directly involved.

5. With the future welfare of both nations in mind the Japanese Government feel that the urgent need at the present moment is to arrive at a solution of the problem by cooperation of the two countries and thus seek a path of common happiness and prosperity. Their willingness remains unaltered and unabated to open negotiations with the Chinese Government on the subject of the basic principles above formulated relating to normal relations between Japan and China and on the subject of the withdrawal of Japanese troops to the South Manchuria Railway zone.

[Annex 3]

Agreement Relating to the Chientao Region Concluded Between Japan and China, September 4, 1909 (MacMurray—Page 797)

ART. 6.—The Government of China shall undertake to extend the Kirin-Changchun Railway to the southern boundary of Yenchi, and to connect it at Hoiryong (Huining) with a Korean railway, and such extension shall be effected upon the same terms as the Kirin-Changchun Railway. The date of commencing the work of the proposed extension shall be determined by the Government of China, considering the actual requirements of the situation, and upon consultation with the Government of Japan.

[Annex 4]

Statement Made by Mr. Charles E. Hughes at the Meeting of the Committee on Pacific and Far Eastern Questions of the Washington Conference, February 3, 1922

It is further to be pointed out that by Articles II, III, and IV of the treaty of May 25, 1915, with respect to South Manchuria and Eastern

Inner Mongolia,³¹ the Chinese Government granted to Japanese subjects the right to lease land for building purposes, for trade and manufacture, and for agricultural purposes in South Manchuria, to reside and travel in South Manchuria, and to engage in any kind of business and manufacture there, and to enter into joint undertakings with Chinese citizens in agriculture and similar industries in Eastern Inner Mongolia.

With respect to this grant, the Government of the United States will, of course, regard it as not intended to be exclusive, and, as in the past, will claim from the Chinese Government for American citizens the benefits accruing to them by virtue of the most-favored-nation clauses in the Treaties between the United States and China.

I may pause here to remark that the question of the validity of the treaties as between Japan and China is distinct from the question of the treaty rights of the United States under its treaties with China; these rights have been emphasized and consistently asserted by the United States.

[Annex 5]

*Protocol Attached to Sino-Japanese Treaty Relating to Manchuria,
December 22, 1905*

"3. The Chinese Government engage, for the purpose of protecting the interest of the South Manchurian Railway, not to construct, prior to the recovery by them of the said railway, any main line in the neighborhood of and parallel to that railway, or any branch line which might be prejudicial to the interest of the above-mentioned railway.

"10. The Chinese Plenipotentiaries declare that immediately after the withdrawal of the Japanese and Russian troops from Manchuria, China will proceed to take, in virtue of her sovereign right, full administrative measures to guarantee peace in that region and endeavor, by the same right, to promote good and remove evil as well as steadily to restore order, so that the residents of that region, natives and foreigners, may equally enjoy the security of life and occupation under the perfect protection of the Chinese Government. As to the means of restoring order, the Chinese Government are to take by themselves all adequate measures.

³¹ *Foreign Relations*, 1915, p. 172.

793.94/2364 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 28, 1931.

[Received 4:22 a. m.]

825. Kuo Wen report from Nanking, 27th, quotes from President Chiang Kai-shek's address same day as follows:

"Although from standpoint of our people the League of Nations resolution naturally fails to meet our demands yet when we consider position and difficulties of League we cannot but admit that it has done its duty. We are confident that after having passed the resolution, League will see to it that it be carried out. Furthermore we believe that as a result of efforts of League Council during last few weeks the cause of world peace has been further strengthened. While accepting the resolution we should voice our appreciation of the efforts of the League and particularly work of Briand and his colleagues on Council.

America is not a member of League of Nations but her willingness to cooperate with that body deserves of gratitude.

It has now become clear that recent actions of Japanese in Manchuria do not represent wishes of great majority of Japanese people but were committed by a few unscrupulous and ambitious militarists. We cherish no enmity toward the peacefully inclined people of Japan. We hope that they will bring pressure to bear on their military leaders for the execution of the League resolution, thereby facilitating early restoration of friendly relations between the two countries. We also hope that Japanese people will realize this point and be able to remove one of the most unfortunate shadows on Far Eastern horizon before November 16th, thus insuring peace of the world."

For the Minister:

ENGERT

793.94/2370 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 28, 1931—noon.

[Received 2:30 p. m.]

264. Consulate's 235, October 22 [21], 5 p. m., final paragraph, and 260, October 27, 9 a. m.,²² paragraph 11.

1. There is no information available here respecting action of Government[s] in making public notes invoking Pact of Paris. The Secretariat's position is that this question has passed into the hands of the Governments signatory and any information that might reach Geneva would be purely unofficial and incidental.

2. I am informed, however, that with respect to states represented on the Council those known to have invoked the Pact are Great Britain,

²² Neither printed.

France, Germany, Italy, Norway, Spain, Portugal, Yugoslavia and the Irish Free State. Panama is believed to have done so. There is no information respecting Guatemala and Peru.

GILBERT

793.94/2372 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, October 28, 1931—2 p. m.

[Received 3:05 p. m.]

265. (1) Drummond asked me to visit him this morning and discussed the situation as it appeared to him in light of the Japanese note which I reported in my 263, October 28, 11 a. m.³³ This note, he said, presented the five points of Japan's demands practically as they had been stated during the negotiations here, though the note might be construed to carry inferences of claims more extensive. Then he referred to recent Tokyo reports in the press, emanating apparently from official Japanese sources, in which two additional demands, namely, the payment of a sum of money and the problem of leases, were mentioned with the five points.

Drummond said this left Paris and Geneva (meaning Briand and himself) not knowing where they were. He said Briand did not know whether the Japanese note in effect included the demands mentioned in the press reports or which of the two versions of Japan's demands was correct.

When I entered Drummond's office, he had just concluded a telephone conversation with Briand. In line with this conversation, Drummond is preparing a reply to the Japanese note. He told me he felt the League must immediately make a counter move, as the Japanese note had been an appeal to public opinion.

(2) Drummond next speculated somewhat regarding possible action by the United States in connection with the October 24 draft resolution of the Council and later developments. He said he believed the Japanese position was stiffening and their next move will be the setting up in Manchuria of a puppet government. He wondered if Washington were holding conversations in regard to possible action with London and Paris. I informed him I had no intimations at all from Washington in the premises.

I am mentioning this because of the impression I gain in Geneva that Briand and Drummond continue handling the negotiations for the Council and that an important part will be played by Drummond.

³³ Not printed; the Japanese note was the same as the statement of the Japanese Government issued at Tokyo, October 27, p. 336.

Since official communications from the Japanese and Chinese are addressed to Drummond as Secretary-General, it is possible that for the present at least Geneva will remain the center of action by the Council in this connection.

GILBERT

793.94/2386 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, October 29, 1931—4 p.m.

[Received 5:03 p.m.]

347. Foreign Minister will sincerely appreciate it if the Department will inform him through this Embassy whether our Government has named a representative in accordance with the resolution of the Council of League of Nations of October 24th to negotiate with the Chinese authorities regarding the Manchurian situation.

My 341, October 17, 3 p. m.³⁵ The Foreign Minister continues to work for a peaceful settlement of the Manchurian conflict and is in frequent conference with Japanese and Chinese Ministers here. He is, I believe, in sympathy with the Chinese point of view, feeling Japan should withdraw and reduce its armed forces by November 16th before negotiations that promise any success can take place. I do not think he is especially hopeful that Japan will do this.

Chinese Minister this morning showed me a cable from Chiang Kai-shek expressing sincere appreciation for Peru's assistance, the action of the Peruvian representative in the League, et cetera. Chinese Minister is actively aiding with this Government his country's interests in Manchuria. He confided to me day before yesterday that he saw no solution but is today just a shade more hopeful.

Further report by mail.³⁵

DEARING

793.94/2393

Memorandum by the Secretary of State

[WASHINGTON,] October 29, 1931.

The French Ambassador came in to tell me first of the appreciation and thanks of his government and the Laval and Pétain Parties for all the courtesies that had been shown them in this country.

Secondly, the Ambassador brought up the question of Manchuria. He had in his hands a note in French from M. Briand which he trans-

³⁵ Not printed.

lated,³⁶ which in substance requested him to get us to make a demonstration of our approval of the action of the League in their final resolution, this to be done at Tokyo, and saying that it would be preferable if some publicity could be given to it as there were rumors that we did not agree with the action of the League. The note indicated that Lord Reading was to make a similar *démarche* upon us through the British Ambassador.

I told the Ambassador that I was already at work on the consideration of a note on that subject. I said there were two points which would seem to be the basic points, which I was most troubled over—one was the time limit for evacuation set for November 16th which Japan would undoubtedly reject, and the other was the Japanese refusal to evacuate unless the Chinese discussed not only matters relating to the evacuation but fundamental treaties and treaty rights between the two nations. I said that on its face this last looked as if Japan was trying to force China to accept certain national policies of Japan's by the use of this military occupation, which would be a clear violation of Japan's treaty obligations under the Kellogg Pact and other treaties. I told him that I was more in doubt about the wisdom of the Council's action in setting the time limit because I had had news from Manchuria through our own observers that it would not be safe to withdraw the Japanese troops from certain points in Manchuria by November 16th owing to the state of anarchy which existed. He nodded his head and said he had impressions of the same kind. I said I had these matters under careful consideration and was trying to determine what sort of an answer I could send which would make clear my general support of the League position and yet possibly leave a ladder by which Japan could climb down. He laughed and said he appreciated my use of the word "ladder" because that was a term commonly used in Oriental negotiations and indicated my familiarity with it. He then asked me my views of the final result of the situation. I said that I thought Japan had made a great mistake; that she was now beginning to suffer from the Chinese boycott all through China and that this was likely to bring her to her knees because she would not have the moral support of any other nation. I said I regretted this because I regarded Japan's welfare in her position on the outskirts of the Asiatic continent as very important to the Western world and I was sorry that she had put herself in a position which would probably in the long run end up by doing her serious harm.

H[ENRY] L. S[TIMSON]

³⁶ *Infra*.

793.94/2415

*The French Minister for Foreign Affairs (Briand) to the French Ambassador (Clausel)*³⁷

While the Council of the League of Nations has been unable to solve by conciliatory means the Manchurian difficulties, the proposed resolution which was unanimously adopted, with the only exception of the Japanese delegate, constitutes a compromise which the French Government hopes, may guide the next move on the part of the Japanese Government.

Such a result would remove many risks of aggravation of the present situation and, at the same time, strengthen the moral authority of the Council which the British Government, as well as the French Government should endeavor to preserve. This would be attained more safely if the Japanese Government were more strongly convinced of the solidarity of the powers.

The American observer was not in a position to state publicly the opinion of his Government. His silence might be interpreted by the Japanese as a disapproval of the Council's action. It would be most important if Mr. Stimson, who, since the beginning of the discussions, has repeatedly shown his sympathy for the work of Geneva, would let the Japanese Government know that the Council's recommendations meet with the views of the American Government. Should such an approval be given publicly, the result would be greater.

The British Government has given instructions to its Ambassador in Washington to ask the Secretary of State to send instructions to Tokio for that purpose./.

WASHINGTON, October 29, 1931.

793.94/2372 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, October 30, 1931—5 p. m.

122. Paragraph numbered (2) of your 265, October 28, 2 p. m. This matter is being discussed here with the French Ambassador.

STIMSON

³⁷ Transmitted in English to the Department by the French Embassy, apparently on October 31.

793.94/2413 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 31, 1931—9 a. m.

[Received 9:10 a. m.]

270. Drummond has handed me a copy of a note from Briand as President of the Council to Yoshizawa, in reply to the Japanese declaration dated October 26³⁸ (Consulate's 263, October 28, 11 a. m.³⁹). I understand that Briand handed this to Yoshizawa on the evening of October 29. It is being circulated to the members of the Council. The text of the note is as follows:

"As President of the Council of the League of Nations, I have examined most carefully the Japanese Government's declaration dated October 26, which Your Excellency was good enough to communicate by telegram to me and to the other members of the Council through the Secretary General.

I feel I must submit to you certain observations on this communication.

Since the last meeting of the Council, when the draft resolution on which my colleagues had asked me to report secured the approval of all the members of the Council except the Japanese representative, the position in regard to the question submitted to us for consideration has become clear. It may be stated as follows:

Independently of the vote taken at the last Council meeting, which retains its full moral force, we still have before us, from the juridical standpoint, a valid resolution, namely, that which was unanimously adopted on September 30th, and which retains its full executory force.

In that resolution the Council noted the statement made by the Japanese representative that the Japanese Government will continue as rapidly as possible the withdrawal of its troops which has already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured and that it hopes to carry out this intention in full as speedily as may be. No indication whatever was given at that time by the Japanese representative that matters such as an agreement as to the treaty rights of Japan in Manchuria were in any way connected with the safety of the lives and property of Japanese nationals.

It is further to be noted that in the two draft resolutions submitted to the Council on the 24th October the first three paragraphs are exactly the same, Your Excellency having withdrawn the amendment to paragraph (3) which you had submitted. It may therefore be assumed that these paragraphs express the will of the two parties. In their declaration of October 26th the Japanese Government further stated that, when it referred to certain fundamental principles it had in mind the following:

1. Mutual repudiation of aggressive policy and conduct—paragraph (2) of the two drafts submitted on October 24 states that

³⁸ See statement of the Japanese Government, p. 336.

³⁹ Not printed.

the two countries 'are bound not to resort to any aggressive policy or action'.

2. Respect for China's territorial integrity. Paragraph (3) of the two drafts records an undertaking to that effect.

3. Complete suppression of all organized movements interfering with freedom of trade and stirring up internation[al] hatred. Paragraph (2) of the two drafts declares that the two Governments are bound to take measures to suppress hostile agitation.

4. Effective protection throughout Manchuria in order to allow Japanese nationals to engage there in any peaceful pursuits. Paragraph (1) of both drafts declares that the Chinese Government are pledged to the effective protection of Japanese subjects residing in Manchuria.

The fact that on the one hand the Chinese representative accepted the terms of the resolution which I proposed on behalf of my colleagues and that on the other hand the counterdraft of the Japanese representative contained the three paragraphs to which I have referred show that the two Governments are in complete agreement on these four points.

There remains only the last point: 'Respect for treaty rights of Japan in Manchuria'.

With regard to that point I would call Your Excellency's attention to the letter addressed to me by the Chinese representative on the 24th October in which Doctor Sze declares that ['China, like every member of the League of Nations, is bound by the Covenant to a "scrupulous respect for all treaty obligations"']. The Chinese Government for its part is determined loyally to fulfill all its obligations under the Covenant. It is prepared to give proofs of this intention by undertaking to settle all disputes with Japan as to treaty interpretation by arbitration or judicial settlement, as stated in article 13 of the Covenant['].

It therefore appears to me, and I feel sure that my colleagues on the Council, including, I trust, Your Excellency, will agree that the Chinese Government have given to the Council of the League, on which Japan has a permanent representative, pledges which cover the various fundamental principles raised by the Japanese Government.

In these circumstances I feel confident that the Japanese Government, being desirous of fulfilling the undertaking which it solemnly contracted under the terms of the resolution of September 30th and which, moreover, it repeatedly confirmed by its declarations during the last session of the Council, at the meetings of October 22, 23 and 24, will continue as rapidly as possible the withdrawal of its troops into the railway zone and that it will thus be able to carry out that intention to the full in the shortest possible time.

In view of the extreme importance which your Government attaches to the safety of the lives and property of Japanese nationals in the territories evacuated by its troops, I venture to call Your Excellency's attention to paragraph (5) of the resolution submitted to the Council on October 24, which recommends the two Governments 'to appoint immediately representatives to settle the details relating to the carrying out of the evacuation and to the taking over of the evacuated territories, in order that these operations may be carried out in a regular manner and without delay.'"

It is requested that this note be regarded as confidential until Monday, November 2nd, when it will be made public.

GILBERT

793.94/2386 : Telegram

The Acting Secretary of State to the Ambassador in Peru (Dearing)

WASHINGTON, October 31, 1931—4 p. m.

60. Your 347, October 29, 4 p. m., first paragraph. It has not been proposed to the American Government that it name a representative "to negotiate with the Chinese authorities regarding the Manchurian situation". If the inquiry refers to paragraph (4) of the resolution voted upon by the Council on October 24, it may be stated for your information and guidance that the Department feels that any action which may be proposed in connection with that paragraph should be taken in the first instance by the Council or Governments members of the League and that, while the Department has the matter under consideration, it prefers to refrain from commitment until it is informed specifically with regard to action taken by League members.

CASTLE

793.94/2437a : Telegram

The Acting Secretary of State to the Consul at Geneva (Gilbert)

WASHINGTON, October 31, 1931—4 p. m.

124. Referring to that part of paragraph (4) (b) of the resolution voted upon by the Council on October 24 which relates to association with the Chinese authorities of representatives of other powers.

1. The Chinese Government has asked this Government to name representatives who will be prepared to function in the capacity indicated. We have replied that we feel that any action taken in that connection should be in the first instance by the Council or Governments members of the League and that we prefer to refrain from commitment until we are informed specifically in regard to action taken by League members.

2. The American Legation, Peiping, now informs us that the British Minister states that he has been authorized by his Foreign Office to advise the Chinese Government that he is holding members of his staff in readiness to proceed to Manchuria on or about November 16 as observers in case their services are required in connection with a Japanese withdrawal, this being in response to a request from the Chinese Government.

3. Department desires information concerning action taken by British and French and any other Governments members of the League in this connection. Please keep Department promptly informed by telegraph in relation thereto.

CASTLE

793.94/2418 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 1, 1931—9 a. m.
[Received November 1—2:40 a. m.]

849. Following from American Consul General at Mukden:

"October 31, 1 p. m. Reliable information has been received that a Japanese armed guard last night removed \$670,000 of Salt Administration funds from the Bank of China, Newchwang, to the Provincial Bank, Newchwang."

For the Minister:
ENGERT

793.94/2419 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, November 1, 1931—9 a. m.
[Received 10:35 a. m.]

271. The essential points of a letter dated October 30 from Sze to Drummond are as follows:

(1) The Chinese Government is gravely concerned by the multiplying evidence of the illegal Japanese occupation of Manchuria being employed to organize so-called independence movements through destruction of all civil authorities and the substitution of administrations which are subservient to Japanese orders.

(2) On October 28 the Chinese Government telegraphed Sze the most recent illustration of this policy as follows: Japanese induced Magistrate Chao Tseh-min of Hwaitehhsien to visit Kungchuling on the South Manchuria Railway. At that place a party of Japanese attempted to force his signature to an undertaking promising to declare independence and to organize a peace-preservation committee like the one established already at Lishuhsien. When he refused, the Japanese assaulted him, demanded a payment of 200,000 yen, and incarcerated him in the Japanese Club. There also were other Chinese who had experienced similar ordeals. Finally the magistrate secured his release on the pretext of consulting public opinion in his town. He says he will continue resistance should further efforts be made.

(3) The Chinese Government learned the foregoing directly from an escaped subordinate Chinese official. It should be kept strictly confidential, especially as to localities and names, since the magistrate's life will be in jeopardy if the source of the report should be traced.

(4) The above is merely one typical example of what is transpiring at present in Manchuria.

GILBERT

793.94/2422 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANKARA, November 1, 1931—noon.

[Received November 1—11:10 a. m.]

11. On October 21 Turkish Government sent identic telegrams to Chinese and Japanese Governments calling their attention with respect to the Manchurian situation to article 2 of the Pact for the Renunciation of War and expressing the hope that both Governments would abstain from acts which might compromise the efforts now being made to settle by peaceful means the differences which have arisen between them.

GREW

793.94/2430 : Telegram

The Minister in China (Johnson) to the Secretary of State

SHANGHAI, November 2, 1931—noon.

[Received November 2—9:13 a. m.]

My October 26, 7 p. m., from Nanking. I received on the eve of my departure from Nanking a written request from the Acting Minister for Foreign Affairs, dated October 28th, asking the "American Government to designate representatives with whom the Chinese authorities will be pleased to associate in accordance with the terms of the resolution of October 24th of the Council of the League of Nations." The Acting Minister for Foreign Affairs asks me to communicate to him as soon as possible the names of the representatives to be appointed by the United States. I communicated Department's attitude as set forth in the last sentence of Department's 103, October 27, 5 p. m., to Nanking, orally to the Acting Minister for Foreign Affairs.

Repeated to Peiping.

JOHNSON

793.94/2434 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, November 2, 1931—3 p. m.

[Received November 2—11:35 a. m.]

273. Referring to the source cited in my 158, October 7, 9 a. m.,⁴⁰ the same has recently sent Drummond a communication substantially as follows:

On October 27 the Chinese stated that thoroughly reliable troops would be dispatched from south of the Great Wall to occupy evacuated districts in Manchuria; this would require the moving of a considerable number of troops toward Chinchow, and therefore it was very important to prevent bombardment or other incidents. It was deemed essential that neutral observers should accompany these troops.

Drummond telegraphically replied to this in the following sense: The October 24 resolution of the Council, it should be remembered, is without binding force, as it was not passed unanimously. Only the September 30 resolution is valid. Therefore, the Chinese Government should for the present exercise great prudence and take every measure to avoid the possibility of an armed clash.

GILBERT

793.94/2429 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 2, 1931—4 p. m.

[Received November 2—6 a. m.]

859. Legation's 830, October 29, 3 p. m.; and 858, November 2, 3 p. m.⁴¹

Wellington Koo, who returned here with the Marshal October 31st, requests me to suggest that should the American Government contemplate action similar to that taken by the British it would be extremely helpful to the Commission, of which he has just been made chairman, if such decision could be announced at the earliest date possible. He feels it would lend moral support to the Commission when it was most needed.

Repeated to Shanghai.

For the Minister:

ENGERT

⁴⁰ Not printed.

⁴¹ Neither printed.

793.94/2431 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, November 2, 1931—7 p. m.

[Received November 2—9:40 a. m.]

92. The Chinese Ministry of Foreign Affairs on November 1 announced to the press that the National Government had appointed a commission of seven members with Wellington Koo as chairman to conduct negotiations necessary in connection with the reoccupation of territory in Manchuria handed back by the Japanese. The Acting Minister for Foreign Affairs informed me November 2, 5 p. m., that this action was taken in fulfillment of China's obligations under the resolution of the League Council passed October 24. He expressed anxiety to know whether the American Government intended to appoint observers.

Repeated to the American Minister.

PECK

793.94/2479

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] November 2, 1931.

The British Ambassador came to see me to ask about the Manchurian situation and as to whether we had sent a note supporting the League resolution. I told him that we were very carefully considering what our action should be, that we wanted to make it clear that we were in accord with the spirit of the League's action, but that I did not feel that we were called upon to concur in detail with the resolution. He said that parts of it seemed to him unfortunate, particularly the date of withdrawal. I told him that we had the same feeling here. I said that our aim would be to point out to the Japanese that it was exceedingly unfortunate for them to make as a *sine qua non* of withdrawal a demand for negotiation on subjects which had no relation or at least no immediate connection with the present dispute.

The Ambassador said that he felt the League's action to have been hurried and perhaps taken at a time when the members were not all thinking calmly. I also told him that when we had decided exactly what message to transmit to Japan, I would let him know.

W[ILLIAM] R. C[ASTLE,] JR.

793.94/2455: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 2, 1931—11 p. m.

[Received November 3—11:20 a. m.⁴²]

274. I have just had a very long talk with Drummond in which he discussed the present situation in Manchuria and expressed his views on the League's action thereon and possible American relationship therewith. I took up with him the question raised in the Department's 124, October 31, 4 p. m. His reply was so tied up with the general situation that I shall for the sake of clarity bring it in in this telegram in its appropriate connection. The essentials of which Drummond had to say were as follows:

1. The immediate Sino-Japanese problem has obviously a most important bearing on disarmament and other world questions. In view of this the United States and the majority of the League states have a common objective in reaching a satisfactory solution in the shortest possible time. American cooperation in this is probably absolutely essential. This immediate objective is so important in the way of implications that questions of League prestige and similar considerations should be absolutely laid aside.

2. The draft resolution of October 24 as pointed out in Briand's note to Yoshizawa (Consulate's 270, October 31, 9 a. m.) has no juridical force. It thus cannot technically be regarded as definite League policy which is still based on the resolution of September 30th. The draft resolution may be considered however as possessing a moral force as explicit of what the Governments represented on the Council (with the exception Japan) consider to be right and fair under the circumstances. Moreover, with the foregoing consideration in mind it may also be found to contain suggestions which individual governments might deem it desirable to take up in Tokyo and Nanking.

3. The important part of the September 30th resolution is that which envisages a speedy withdrawal of Japanese troops to within the railway zone and the effective assurance of the safety of the lives and property of Japanese nationals incident to evacuation.

Briand's note to Yoshizawa stressed this point and indicates that in his views as President of the Council the best method of effecting the foregoing would be that the proposal contained in point (5) of the October 24th resolution be adopted by the Japanese Government.

[Paraphrase.] Should this proposal once be in effect, with the discussions begun and proceeding satisfactorily between the Chinese and Japanese representatives, the question of a fixed date such as

⁴² Telegram in two sections.

November 16 (which lacks legal force, as has been stated) becomes of secondary importance.

Of paramount importance at present is the question of obtaining Japanese acceptance of the immediate appointment of representatives and of the early commencement of direct conversations concerning points relative to evacuation. As late as October 30, it is understood, a note which the Chinese addressed recently to the Japanese requesting them to appoint representatives for this purpose had remained unanswered.

4. Drummond believes to be correct the information which the Department's 124 reported with regard to the British attitude concerning the appointment of neutrals in harmony with the resolution of October 24. He understands also that the French Government so far has not been approached on this point by the Chinese. However, he feels if approached the French would agree. Since the October 24 draft resolution lacks binding force, the French nevertheless would probably confine their action to the utilization of their Military Attachés near the scene. As to the action of other Council members on this point, Drummond has no information but believes the French lead is likely to be followed.

5. It is Drummond's feeling that the United States might perhaps perform a very useful service if it could induce the Japanese Government to appoint representatives for the purpose of holding conversations with Chinese representatives in accordance with the proposal discussed above under 3. However, he expressed as his own view that any *démarche* which the United States Government might consider it desirable to make in this regard might be more successful perhaps if the matter were privately taken up with the Japanese, for publicity might render more difficult an acceptance by Japan.

6. The press of various countries has printed articles since the middle of October, though recently these have not been so frequent, purporting to be based upon information from Washington to the effect that this capital and Geneva are divided as to policies toward the present situation. These articles have in particular intimated that the United States was not in agreement with the League of Nations in its "demands" on Japan. It is felt by Drummond that a useful purpose would be served at this juncture if perhaps Washington in a statement were to indicate in general terms that such a disagreement does not exist or if possible an American communication of a similar purport to the League might be made public.

7. I desire to make it clear that Drummond in his conversation with me made no direct request concerning possible action by the United States. I was aware, however, from the atmosphere of our conversation that he would appreciate greatly any expression of your

views which you might find it possible to give him in line with the questions which are implied in the above. [End paraphrase.]

8. In view of the circumstance that questions of policy have been raised in the foregoing I will add that the matter of possible American policy in the premises has been frequently brought up by diplomatic representatives of various Governments in Geneva in the natural course of my contact with them. As of possible interest I submit the gist of their expressions in this connection :

Although technically the League Council is taking publicly the lead in this matter it is erroneous to regard the Council or the League as something above or apart from the states composing it. Especially in a case of this character Council policy possesses strength only in proportion as it is supported or implemented by the League powers; in this instance the great powers are almost solely concerned.

A certain hesitancy appears to exist in the Foreign Offices of the great powers inasmuch as, regarded individually, they are looking to America for leadership because of its great prestige and its important position in relation to the Orient and also because it is more powerful than any single one of the European states. They look for this leadership to be extended privately or publicly, either through a backing of Council policy, if Washington be in agreement therewith, or perhaps through a more individual form of leadership.

GILBERT

893.00/11685

*Memorandum by the Minister in China (Johnson)*⁴³

SHANGHAI, November 2, 1931.

I called upon Dr. C. C. Wu⁴⁴ this evening and in the course of a long conversation he informed me that up to within a few minutes of my arrival he had hoped that it was going to be possible for the Nanking and Cantonese delegates to reach an agreement satisfactory to both but he said that just a minute or two before my arrival word had come to him by telephone that President Chiang Kai-shek had made a violent denunciation of the Cantonese negotiators at the morning Memorial Service in Nanking today. He said it was difficult to understand why Chiang Kai-shek had taken this step as the Nanking delegates had left for Nanking last night and were due there at seven this morning.

Dr. Wu then proceeded at some length to outline the situation as it had developed. He said that President Chiang had sent a telegram to them at Canton offering to negotiate along three different lines.

⁴³ Copy transmitted to the Department by the First Secretary of Legation in his despatch No. 1277, November 20; received December 19.

⁴⁴ Wu Ch'ao-chu, former Chinese Minister at Washington.

Of the three lines offered the Cantonese had chosen the first which was that a statement dissolving the Cantonese Government should be issued simultaneously with a statement from President Chiang Kai-shek announcing his resignation. He said that on the basis of this Canton had appointed its delegates and they had come to Shanghai and had submitted draft statements to be issued by both sides expressing on behalf of the Cantonese their readiness to dissolve their government and on behalf of Chiang Kai-shek his readiness to resign upon the dissolution of the Cantonese Government. He said that the Nanking delegates had brought to Shanghai a circular telegram signed by Chiang Kai-shek indicating his readiness to retire. Dr. Wu said that the Cantonese delegates, rather than accept his retirement at once, had suggested a delay of a few days in order that both sides might explore the situation and that then they had proceeded to the holding of meetings in the course of which they had discussed various proposals for changes in the form of government. He said that Canton's suggestion of a postponement of the issuance of Chiang's circular telegram had been made because the Canton delegates realized the delicacy of the situation in view of the Manchurian question and did not wish to prejudice China in the handling of the dispute with Japan. He said that the Canton delegates recognized the ability of Chiang; that they did not wish to lose his talents; that it was their proposal that he be put at the head of the military council but for some reason or other Chiang Kai-shek had changed his attitude and it was now very difficult for them to reach any agreement on the questions in dispute. He told me that it was rumored, and he intimated that the rumors came from the Nanking delegates, that the reason why Chiang had changed his attitude was because the British, American and French Ministers had expressed to Chiang their hope that he would not resign, that he would remain in the Government inasmuch as they had no confidence in the leadership from Canton. I told Dr. Wu that so far as I was concerned I could assure him that there had not been the slightest intimation on my part to Chiang or to anyone else in the Nanking Government that the American Government preferred one group to another in the matter of the establishment of a government in China. I said I thought that he knew the United States well enough to know that it would be unthinkable for its representative in China thus far to become involved in China's domestic politics. I stated that I had discussed with members of the Government in Nanking, and particularly with President Chiang Kai-shek, the Manchurian situation and China's policy in regard thereto; that I had given to President Chiang and to other members of the Government such information as I had regarding conditions in Manchuria and that I had trans-

mitted such statements as President Chiang and other members of the Government desired to make to me in regard to China's policy in this matter but that beyond inquiring as to the possibilities of success of the negotiations now going on between Nanking and Canton I had never discussed the matter with any member of the Nanking Government. I stated that I had found all members of the Government, from President Chiang on down, peculiarly reticent on the whole subject and I hoped he would do what he could to disabuse the minds of his colleagues of any idea that the United States Government might attempt in any way to influence Nanking in these negotiations about a purely domestic question. Dr. Wu stated that he himself had been very skeptical of the truth of these rumors but he thought it was wise to mention them to me.

Dr. Wu stated that, the delegates having arrived in Shanghai and the Cantonese delegates having decided to postpone the circulation of the telegram announcing the resignation of Chiang Kai-shek for a few days, they had proceeded to a discussion of the questions of details in connection with the formation of a new government and had been succeeding fairly well when suddenly the Cantonese had been denounced by Nanking. He was not sure just what course the negotiations would take from now on.

He stated that in the plan of government which they had under consideration it was proposed to do away with a military head of the Government and substitute therefor a civilian government with a civilian at its head. It was their desire to have this civilian a dignified Chinese of the type of Mr. Tong Shao-yi⁴⁵ who would be able to represent the Government but not rule. They had in mind a position similar to that of the President of France.

They did not wish to deprive themselves of the very considerable talents of General Chiang Kai-shek. It was their proposal that he remain as head of the military commission and thus they hoped to continue to make use of his talents as a military man but they were determined to do away with a government with a military head.

As regards foreign policy, Dr. Wu stated that he wanted to tell me as one friend to another that their policy was oriented upon a basis of friendly intercourse with Great Britain and the United States due to the fact that Great Britain had predominant interests here in China and the fact that the United States had been historically friendly and always helpful to China in times of crisis. He said that there were others in the government at Canton who had theories about foreign relations but that these people would subordinate themselves and their ideas to the rule of the Party.

⁴⁵ First Premier of the Provisional Republican Government at Peking in March 1912.

I gathered from this interview that the attitude of the Cantonese delegates was not at all friendly toward Chiang Kai-shek and that they would insist upon his relinquishing a great deal of his power before they would consent to cooperation with the members of the Government now in Nanking.

NELSON TRUSLER JOHNSON

793.94/2444 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, November 3, 1931—9 a. m.

[Received November 3—2 a. m.]

93. The Chinese Acting Minister of Foreign Affairs called on me November 2, 5 p. m., and showed me a Reuter telegram dated Washington, October 31 (presumably supplied by the Associated Press) reporting remarks attributed to Under Secretary of State Castle. In view of the ambiguity of the message as received the Acting Minister asked that I ascertain by telegraph:

1. Whether Castle said that under treaties guaranteeing integrity of China the United States would feel compelled to disapprove permanent Japanese occupation of Manchuria; and

2. If so, what were the treaties in reference;

3. Whether the fact that the United States did not endorse the League resolution which demanded that Japan evacuate occupied areas in Manchuria by November 16th should be taken as implying that the United States did not approve of that stipulation. Doctor Lee observed that the United States had announced its approval of previous actions taken by the League [in] connection with the present controversy.

Repeated to the American Minister.

PECK

793.94/2475 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 3, 1931—10 a. m.

[Received November 4—3:55 p. m.⁴⁶]

276. The following are the essential points in a conversation which took place between Drummond and Sze last evening:

1. Sze presented a note from the Chinese Government dated November 3 accompanied by a memorandum (the note and memorandum are being transmitted as sections 2 and 3, respectively, of this telegram).

⁴⁶Telegram in three sections.

2. Sze called special attention to the seizure of the salt revenue by the Japanese military authorities and pointed out that this was a distinct interference with the Chinese administration and contrary to pledges given by the Japanese representative. He stated his fear that the situation was growing much worse. He declared he was considering whether he should not ask an earlier meeting of the Council. He feared that if the Council did not move until November 16 it might be confronted with a most grave situation. He expressed his belief that the Japanese advance was causing anxiety to the U. S. S. R. and it might well develop that by November 16 additional complications might arise through difficulties between the U. S. S. R. and Japan. He envisaged that the Japanese might ask the Council for assurances for the safety and property of their nationals from Russian as well as from Chinese elements.

3. Drummond replied that the news in the Chinese note under reference alarmed him and that he would transmit it at once to the members of the Council. He could not advise whether an earlier meeting of the Council was desirable or not but he felt that the President and members of the Council would take the note into consideration in this connection.

4. Sze made clear that he was in no way presenting a request for an earlier meeting of the Council, as he preferred that such a decision should emanate from the council.

The following is the text of the Chinese note of November 3rd:

"The Chinese Government is gravely concerned over the developments in Manchuria since the adjournment of the Council. The attached memorandum which contains a summary of these developments shows that, although 10 days have elapsed since the adjournment of the Council on October 24 and more than a month since the adjournment of September 30, not only has there been not the slightest preparation for withdrawal but on the contrary the Japanese Army is steadily extending and consolidating its grip on South Manchuria and is making attempts to penetrate into North Manchuria that are causing anxiety in Moscow.

It may be remembered that in the resolution of September 30 which was accepted by and is binding upon Japan it was stated that the Japanese Government 'will continue as rapidly as possible the withdrawal of its troops, which has already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured.' The declaration made over a month ago that withdrawal had already been begun is unfortunately not substantiated by the facts. Not only has withdrawal not been begun but the Japanese Government now refuses to honor the promise it made before the Council and declares that it will not begin withdrawal until it has negotiated an agreement with China on certain 'fundamental principles'. This new policy was set forth in the Japanese Government's note to the Chinese Government on October 9 and again before the Council on October 23 and 24. This position was reiterated a few days ago when the Japanese Government refused to appoint representatives to discuss with the representatives of the Chinese Government the details and methods of withdrawal as proposed in the resolution submitted by the Council on October 22

(referred to by this office as the October 24 resolution). The measures proposed in this resolution which retains its full moral force are merely indications of how to carry out the policy to which both parties were pledged by the resolution of September 30. It is this which makes the Japanese Government's changed attitude and insistence upon an agreement upon 'fundamental principles', by means of direct negotiations, as a preliminary to withdrawal, so profoundly disquieting.

This attitude of Japan as was pointed out in the Council on October 23 and 24 is in violation of article X of the Covenant and article 2 of the Pact of Paris. The Chinese Government must reiterate its firm determination never in any circumstances to agree to negotiations under the pressure of military occupation and confidently looks to the members of the League and the United States not to suffer the Covenant, the Pact of Paris and the Washington Nine-Power Treaty to be trampled under foot."

The following is the text of the memorandum accompanying the Chinese note of November 3rd:

"The following is a digest of the information received in cablegrams from Nanking during the last 3 days:

(1) *Means to assure withdrawal.*

The Chinese Government has appointed a commission to arrange with the representatives of the Japanese Government the details of withdrawal, taking over the evacuated areas and assuring the safety of the lives and property of Japanese subjects in those areas. This Commission is composed as follows: Chairman: Mr. V. K. Wellington Koo. Members: Messrs. Chang Tso-hsiang, Chang Chun, Wu Tieh-chen, Lo Wen-kan, Tang Erh-ho and Liu Chi.

On being notified of the appointment of this commission and requested to designate its own representatives, in accordance with paragraph (5) of the resolution proposed by the Council on October 22, the Japanese Government replied that this resolution was not in force, and that, with reference to the taking over of occupied places by the Chinese, the attitude of the Japanese Government had been indicated in its note of October 9th in reply to the Chinese Minister's note of October 5th. In its statement of October 26th the Japanese Government had again indicated its policy with regard to the settlement of the Manchurian affair; and that it was hoped that the Chinese Government would agree to this policy and enter into immediate negotiations for an agreement upon fundamental principles for reestablishing normal relations between Japan and China and the withdrawal of Japanese troops to the railway zone.

(2) *Consolidation of the Japanese hold on South Manchuria.*

General Honjo's headquarters recently informed Mr. Pearson, who is in the employ of the Ministry of Finance, that the entire salt revenue of Manchuria (\$24,000,000 annually) must go to the Mukden Government. This revenue is the security for various foreign loans, and any tampering with it is a violation of international obligations. The recent Japanese raid on the customs office at Mukden, it is feared, foreshadows such activity, in accordance with the 'independence' pro-

gram of cutting the Three Eastern Provinces financially loose from China.

A cable received today confirms the fact of the forcible seizure by the Japanese troops of salt revenue of Newchwang to the amount of \$760,000.

In Mukden, as reported in the German Government's communication to the Council of October 23 and confirmed by later reports from Nanking, the Japanese have appointed Japanese advisers to all the local banks of issue and commercial establishments and are in general closely controlling the whole public life of the city.

The Japanese have collected and transported to Japan in 600 cases \$1,200,000 in cash. Over 300 army sheds have been constructed at Mukden and 40 at Chuliuh, where an artillery regiment and a cavalry detachment are preparing for a lengthy stay.

The Ministry of Railways: The Chinese-owned Mukden-Hailung Railway was taken over by the Japanese on October 15 and is being operated under their control.

Japanese troops have built a platform by force between Manchuria [?] and Shinglungtien Stations on the Peking-Mukden Railway for loading and unloading military stores.

(3) *Fomenting disorder and extending Japanese influence.*

Japanese airplanes aided Mongolian bandits against Chinese troops at Tungliao on October 31 and on the same date a Japanese armored train and two troop trains with several carloads of material left Chengchiatun for Chienchiatien.

On November 1 four Japanese armored trains arrived outside Shutao Station and fired several shots at the city. There are several thousand Mongol bandits behind the Japanese troops preparing an attack on Tungliao.

Mongolian troops and brigands are plundering the Tsitsihar-Taonan Railway with Japanese assistance.

The Japanese are supplying Lin Yin-ching with ammunition to help his so-called self-defense army in making an attack on Chinchow to exterminate the influence in Manchuria of Marshal Chang Hsueh-liang, the representative of the Chinese Government.

The Chairman of the Provincial Government of Heilungkiang, the most northern of the Manchurian provinces, was visited by the representative of General Honjo with the demand that he repair the bridge over the Nonni River within a week, failing which it would be repaired by the Japanese troops. This move was undertaken in order to facilitate the crossing of the river by the Japanese protégé, Chang Hai-peng, who is preparing to attack Heilungkiang. Later two Japanese representing General Honjo called upon the Chairman of the Heilungkiang Provincial Government and told him that Japanese could not recognize his authority because he had been appointed by the Chinese Government and ordered him to hand over his office to Chang Hai-peng on pain of being turned out by force.

The Japanese troops in Kirin Province have compelled the local gentry to present a petition to the Japanese staff requesting that Japanese troops remain to insure order and protectorates [*peace*] and have forced the self-constituted provincial government to dismiss the head of the tax bureau and seized the salt revenues.

The above are merely a few salient facts. To them must be added a series of arrests and imprisonments and coercion of every description against all who in any way represent the lawful authority of the Chinese Government; the arrival of more troops and military stores; the activities, military and political, of Japanese airplanes; and in general the unceasing attempts of the Japanese Army to convert their illegal military occupation into a political and economic strangle hold upon the unhappy country today invaded.[⁷⁷]

GILBERT

793.94/2452 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

SHANGHAI, November 3, 1931—1 p. m.

[Received November 3—5:04 a. m.]

The Consul General at Nanking reports interviewing T. V. Soong on October 30 when Soong expressed some anxiety concerning the French atmosphere in which the League Council would reconvene to consider the China-Japan controversy and explained that China feels the French Navy favored supporting the Japanese Navy and traditional French policy toward China was contrary to Briand's attitude at Geneva. Soong requested Peck to ask that I urge the Department to exercise its influence in having the Council meet in Geneva instead of in Paris. While I am transmitting to you Soong's request, I am at the same time telling Peck to inform Soong that I doubt if the Department will wish to make such a suggestion in League circles.

JOHNSON

393.1154 (M) Andersen, Meyer & Company/1 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 3, 1931—3 p. m.

[Received November 3—6:55 a. m.]

862. Reference page 4, Mukden's despatch No. 454, October 5th, to Legation, copies of which were sent direct to Department.⁴⁷

1. Consul General at Mukden now reports by despatch No. 474, October 31st,⁴⁸ Antung (Chinese) electric light plant remains closed. Andersen, Meyer and Company have interests approximating United States dollars 100,000 based on outstanding accounts for equipment supplied, and closing of plant has prevented continuance of monthly payments to the American company. Repeated requests of the Ameri-

⁴⁷ *Ante*, p. 118.

⁴⁸ Not printed.

can company for an explanation of Japanese military have finally elicited reply to the effect that closing of plant was and is a military necessity. American and Japanese Consuls General both consider explanation entirely unsatisfactory, but military refuse to give any other assurance.

2. Myers requests reference of case to the Department for such instructions or action as it deems appropriate.

3. Myers is keeping Embassy at Tokyo fully informed.

For the Minister:
ENGERT

793.94/2445 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, November 3, 1931—4 p. m.
[Received November 3—7:03 a. m.]

863. Legation's 862, November 3, 3 p. m. The Consul General at Mukden on November 2, 5 p. m., reported the closing by Japanese of the Chinese electric light plant at Changchun; the Japanese plant is supplying current. He is reliably informed that the Japanese are installing a transformer leading to the old Chinese plant in Mukden, intending to close this and to furnish current from Fushun. These two cases, along with that at Antung, appear to indicate a plan to obtain a monopoly in South Manchuria of electric power.

For the Minister:
ENGERT

793.94/2444 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, November 3, 1931—6 p. m.

106. Reference questions 1 and 2 in your 93, November 3, 9 a. m.

(1) The wording of the question which was asked in the press conference ran: "Has the United States ever taken a position as to Manchuria which would preclude its approval of permanent Japanese occupation outside the Railway Zone?" Under Secretary Castle gave this reply after some discussion of the meaning of the question: "I should say yes because of various treaties we have signed to maintain the integrity of China". Reference was made thereafter expressly to the Washington Nine-Power Treaty.

As to question 3 in your 93, no inference should be drawn.

(2) In replying to the Chinese Acting Minister for Foreign Affairs you may do so in the form of expressing informally and unofficially your own opinion but not as a reply by the Department to Dr. Lee's questions. You should informally explain the nature of the Department's press conferences. It is not the Department's wish to have a position or an attitude created for or ascribed to it as a result of a question-and-answer process suggested by and relating to reports in a newspaper. The views of the Department will be disclosed when in its opinion the development of the situation so requires. You have been informed concerning the Department's principal objective. Toward attaining this objective, the Department finds it essential to pursue an impartial course and to avoid even appearing to favor either disputant or to pass judgment on points in advance of the necessity or opportunity for action as regards them.

STIMSON

793.94/2461 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 4, 1931—9 a. m.

[Received November 4—2:05 a. m.]

867. 1. Following from Consul General at Harbin:

"November 3, 5 p. m. (1) I returned early this morning from Tsitsihar, where I spent November 1st and 2nd, interviewing Chinese officials, Japanese Consul, American missionaries and Russians and inspecting Taonanfu-Angangki Railway bridges near the Nonni destroyed by Tsitsihar troops.

(2) There is but little doubt that General Chang Hai-peng of Taonanfu, either instigated or forced by the Japanese military, who aided him with advice and supplies, started his cavalry force of about 5,000 on the way north toward Tsitsihar on October 15th. General Hsieh Ke, Chief of Staff to Chairman Wan Fu-lin, who was and is in Peiping, ordered most of the Tsitsihar troops to retreat eastward along the Tsiko Railway⁴⁹ and the destruction of smaller bridges approaching both sides of the main bridge across the Nonni and a span of the latter. Wan Fu-lin directed that General Ma Chan-shan, garrison commander at Taheiho, proceed to Tsitsihar, take command as Acting Chairman and resist Chang's approach. Ma arrived at Tsitsihar October 19th. Without fighting, Chang's troops began to retreat toward Taonan but a portion of them returned to Tailai and to the bridge over the Nonni; Chang's and Ma's troops are now facing each other with this bridge between them."

2. Following from Consul General at Mukden November 3, 6 p. m., on the same subject:

"Yesterday Honjo issued an ultimatum to Chinese Government [*authorities?*] at Tsitsihar and Taonan each to withdraw 10 kilo-

⁴⁹ Tsitsihar-Koshan Railway.

metres from the Nonni River to prevent interference with Japanese repair gangs who start work under protection of Japanese forces tomorrow on destroyed railway bridges. Taonan troops believed to be at Tailai."

For the Minister:
ENGERT

793.94/2457 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 4, 1931—10 a. m.
[Received November 4—1:10 a. m.]

868. Department's 397, October 27, 5 p. m. Following from American Consul General at Mukden:

"November 3, 2 p. m. Japanese military headquarters reports that Mukden radio station has been restored to working condition; Japanese Consulate General to be advised of wave length, operating periods, and other information to facilitate resumption of Mukden-San Francisco service."

Legation assumes Myers will not reply pending receipt of Department's instructions.

For the Minister:
ENGERT

793.94/2466 : Telegram

The Minister in China (Johnson) to the Secretary of State

SHANGHAI, November 4, 1931—10 a. m.
[Received November 4—5:10 a. m.]

Following from American Consul General at Nanking:

"November 3, noon. The following note in English was received November 3, 10 a. m.:

Waichiaopu, Nanking, November 2.

Excellency: Referring to my note of October 28 in which the Chinese Government invited the American Government to designate representatives to associate with the Chinese authorities in the taking over of places in Manchuria to be evacuated by Japanese troops, I have the honor to inform Your Excellency that the Chinese Government has appointed a commission for the reoccupation of evacuated territories which is composed of the following members: Dr. V. K. Wellington Koo, Chairman, General Chang Tso-hsiang, Mr. Chang Chun, Mr. Wu Tieh-chen, Dr. Lo Wen-kan, Mr. Tang Erh-ho, Mr. Liu Chi.

The Chinese Government takes this opportunity to request the American Government to expedite the appointment of its representatives who, it is hoped, will speedily proceed to Manchuria and associate with the above-mentioned Chinese officials.

I avail myself, et cetera. Signed Chinglun Frank W. Lee, Acting Minister for Foreign Affairs.

His Excellency Mr. Nelson Trusler Johnson,
American Minister.'"

JOHNSON

793.94/2467: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 4, 1931—noon.
[Received November 4—9:20 a. m.⁵⁰]

870. Legation's 867, November 4, 9 a. m. Following is continuation of Harbin's November 3, 5 p. m., dated November 3, 12 a. m., just received:

"(3) The Japanese Consul at Tsitsihar, Shigimidzu [*Shimizu?*], and a Japanese colonel (Chinese name "Lin") representing General Honjo, acting under instructions of the Japanese Government and Honjo, have informed Tsitsihar authorities, who already started to repair damaged bridges north of Nonni River, that the South Manchuria Railway Company, which has a financial interest in the Tao-Ang Railway⁵¹ and which desires to facilitate the movement of the bean crop over this and the South Manchuria Railway lines, desired to repair these destroyed bridges. According to General Ma, the Colonel stated that the South Manchuria Railway would commence repairs on November 4th, protected by 100 Japanese troops if necessary.

(4) Last night General Ma gave me a copy in Chinese of the memorandum which he stated Colonel Lin left with the Commissioner of Foreign Affairs yesterday morning.

This memorandum states that the Chinese troops on both sides shall be withdrawn 10 kilometres to the north and south from the bridge and during the period when the bridges are being repaired no troops of either shall be allowed to enter the region so set off between the two sides. The time when it is expected that the repair work will be finished shall be reported in advance to both sides. Refusal to accept the demands or any interference with the repair work will be considered as a hostile act toward the Japanese troops, in which case Japan will use military force.

(4) [*sic*] Although I am not positive that Colonel Lin handed such a memorandum to the Chinese authorities, circumstances are such that there appears much truth in the Chinese contention. General Ma said that his troops are outside of 10-kilometre zone, that he would not resist the Japanese attempt to repair the bridges nor the Japanese troops, but that he would resist any attempt of Chang's troops to cross the bridge after repairs had been made. He feared that the Japanese troops would get behind Chang's troops and force them over the bridge, causing a fight in which Japanese troops would be involved.

(5) Local Chinese wireless station states that it has received reports which confirm Ma's reports that about 800 Japanese soldiers have

⁵⁰ Telegram in three sections.

⁵¹ Taonan-Angangki Railway.

arrived at Taonanfu and adds that a Japanese armored train is now moving over the Tao-Ang line and approaching the bridge over the Nonni River."

United Press reports from Geneva current here today that Japanese forces have occupied Tsitsihar are incorrect.

Repeated to Shanghai.

For the Minister :

ENGERT

793.94/2465 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

[Paraphrase]

Tokyo, November 4, 1931—5 p.m.

[Received November 4—8:40 a.m.]

204. Since Ambassador Forbes is due back in the morning, I shall hold the memorandum⁵² pending his arrival.

Last night the Vice Minister for Foreign Affairs told me that his Government is preparing a statement for the League Council meeting on November 16. He said he was unable to tell me what it is, but the Foreign Minister is working with other Government members to find a solution permitting negotiations to start.

May I earnestly urge that nothing be done by the United States to associate it with the League's action. The temper of the public in Japan is such that the Japanese Government will not be able to withdraw its troops from Manchuria before November 16 unless negotiations shall have begun by that time with China. This, I believe, cannot be accomplished by a note from the United States.

The local public is convinced that the British, aided by the French, put through the League resolution with the sole purpose of damaging Japanese interests in China. I am unable to see how any American interests can be served by gratuitous support of the resolution which the United States had no hand in framing and for which it is not responsible.

The strength of the American position is the fact that the United States held aloof and has not attempted to pass judgment. My Government can best help the parties concerned by a strict preservation of its neutral attitude in this dispute, so long as it does not result in war, a likelihood I deem improbable. I believe neither party suspects American motives now, and the United States can do more good if it keeps an independent position and offers its assistance in getting China and Japan together.

⁵² See telegram No. 217, November 3, 1931, 6 p. m., to the Chargé in Japan, *Foreign Relations, Japan, 1931-1941*, vol. I, p. 34.

If the United States associates itself with the League resolution, against which Japan voted, this will put us in the position of siding with one party in a dispute of the League of Nations, with which our country is not concerned; it would weaken American influence in Japan on the side of peace, and would not accomplish anything I can visualize in solving the Manchurian question.

May I earnestly request that you consider the advisability of omitting from the memorandum all reference to the resolution of the League Council.

NEVILLE

793.94/2513 : Telegram

Memorandum by the Secretary of State of a Conversation With the Japanese Ambassador (Debuchi), November 4, 1931

I sent for the Japanese Ambassador yesterday but he was out driving and was unable to come but came in this morning and excused himself for not coming yesterday by telling me that it was a great Japanese holiday.

I told him that I wished to see him in respect to representations which I was making to Tokyo in respect to the Manchurian situation.⁵³ These represented long and careful and independent thought on the part of this Government and then I explained to him the position taken in the memorandum which we have drawn up for the Ambassador at Tokyo to give to Baron Shidehara. I told him that in our conclusions we did not enter into any of the minor questions involved in the action of the League but were bringing to the attention of the Japanese Government points which seemed to us to be the nub of the situation arising out of the position which Mr. Yoshizawa seemed to have taken at Geneva; that was that Japan would refuse to evacuate until she had concluded negotiations with China on certain longstanding controversies which did not relate, at least many of them, to the present situation in Manchuria. I said that if Japan took this position, in our opinion, she would place herself in the wrong before the opinion of the whole world because she would be apparently using military force to secure the settlement of these controversies and she would be continuing the disrupted administrative condition of China for the same purpose. I told him that some way should be found to avoid this; that we did not suggest any method but we felt that Japan, with the aid of Monsieur Briand, should be able to find a method.

⁵³ See footnote 52, *supra*.

The Ambassador assured me that the Japanese Government recognized what you might call the friendly attitude of this Government in this matter; at one time there had been a misunderstanding in Japan and Japanese opinion had been excited but that was over and Japanese opinion, as well as the Government, recognized how fair we had been.

He asked me whether I had heard about his talk with Mr. Castle the other day and I told him that I had carefully read the *aide-mémoire* of that talk and also the five or six papers which Mr. Debuchi had left with Mr. Castle.⁴⁴ He said that he thought the League had acted hastily in certain matters. I said that in our present representations we did not go into those matters at all and that I expressed no opinion on them but confined myself solely to the one point which I thought was the most important and I did not wish to have Japan get into a wrong position.

He then asked whether he could take three or four minutes to tell me about the situation in Northern Manchuria in regard to the alleged issue between Russia and Japan and the reports which had come about Japanese occupation of Tsitsihar. He told me that the report that there had ever been any occupation of Tsitsihar was entirely erroneous. He told me that the Chinese General Ma, who had been fighting with another Chinese General Chang, had destroyed three bridges on the railway about thirty miles Southwest of Tsitsihar and that the Japanese had sent a small force of men to repair these bridges.

He said that this railway had been built with Japanese money and was very important as a means of transportation of the Manchurian crops which were being harvested and that this Japanese force had been sent up on the request of the authorities of this Chinese railway plus the authorities of the Southern Manchurian Railway; that they would take about three weeks to repair these bridges and would then be withdrawn. The Russians had become alarmed because these bridges were owned by the Chinese Eastern Railway, which was being operated by Russians, but that there was no truth in the report that the forces were there for any other purpose than as he described.

H[ENRY] L. S[TIMSON]

793.94/2510

Memorandum by the Secretary of State of a Conversation With the French Ambassador (Claudé), November 4, 1931

I had requested the French Ambassador to come in; when he came, I told him that yesterday I had made representations, through my Embassy at Tokyo, to the Japanese Government in regard to the situation

⁴⁴ See memorandum by the Under Secretary of State, p. 333.

in Manchuria and I handed the French Ambassador the annexed *aide-mémoire* to explain to him what had been done. He read it over and as I found there was some danger of him misunderstanding exactly the nature of the representations which had been made in Tokyo, I read to him in full the memorandum which had been sent to Tokyo to be made the basis of its representations. I told the French Ambassador when he read this memorandum that it was to be given to the Japanese Government; after he read it he said he thought it was a strong memorandum. I told him that I had spent many days in trying to soften this language so as not to be deemed harsh. I explained to Mr. Claudel particularly that I had not made to the Japanese the suggestion which is contained on the third page of the *aide-mémoire* as to the presence of neutral observers in the negotiations. I explained to him that I had refrained from making any such suggestion because I wished to leave it to Monsieur Briand and not in any way to cross wires with him. I explained to Mr. Claudel several times so as to avoid any possible misunderstanding of the gist of the representations which were made to Japan. He noted that we had not mentioned the time limit. I said we had not done so because we had doubts as to whether it was wise on the part of the Council to impose any time limit. He seemed to feel himself the same doubt. I pointed out, however, that we had taken no position in our representations one way or the other on that point. I emphasized to him verbally the importance that a ladder should be found for the Japanese to climb down on in case of a deadlock on the point which we emphasized in our memorandum and he asked me whether we had any precedents for this suggestion of a ladder. I told him that the presence of neutral observers had been very useful in the case of the negotiations between China and Japan over Shantung. He asked me what nationality the observers were. I told him that I believed that one observer had been an American; I was not sure of the others but thought that one had been British and possibly one French.

H[ENRY] L. S[TIMSON]

[Annex]

*Aide-Mémoire Handed to the French Ambassador (Claudel),
November 4, 1931*

I have directed the American Ambassador at Tokyo to make representations to the Foreign Minister intended to show the concurrence of the American Government with the position of the Council of the League of Nations with respect to the point which we deem to be most essential in the present situation, namely, that the Japanese Government should not make its withdrawal into the railway zone

contingent upon the prior negotiations with China as to the mutual treaty rights of China and Japan in Southern Manchuria and in the Southern Manchurian Railway. We feel that should Japan persist in its contention, which its representative made at the Council in respect of this matter, it might well be deemed to be equivalent to the use of military pressure by Japan in order to force a solution of certain longstanding controversies which have no immediate relation to the present situation in Manchuria. If this course were persisted in, it might well be deemed to be a violation of the covenant of the Briand-Kellogg Pact to seek the solution of controversies only by pacific means and it might also possibly become a violation of the covenant of the Nine Power Treaty to respect the integrity of the administration of China in Manchuria.

It seems to us that this point constituted the most important question in the recent discussion before the Council over the resolution of October 24 and we have therefore concentrated our attention on this point.

I fear that Japan will not withdraw her forces before the 16th of November, the day set by the Council, and from some of the reports sent me by my own observers, I am inclined to believe that in case of certain towns in Manchuria now occupied by Japanese troops, it might well be impossible to withdraw those troops at so early a date without the likelihood of serious disorders. It may even be that Japan will not yield on the point which we have stressed in our recommendations. She may not be willing to withdraw her troops entirely before negotiations on the broader questions are actually entered into. Should this unfortunate situation arise, we have been earnestly considering what steps might be taken to furnish an alternative suggestion which might accomplish ostensibly the necessary result of preserving these negotiations from military pressure. It has seemed to us, that in case the League is faced with such a deadlock, Monsieur Briand might well resort to the suggestion that the direct negotiations between China and Japan should be conducted in the presence of neutral observers taken from one or more of the other nations. Such a method was adopted in the negotiation between China and Japan in respect to the evacuation of Shantung with success. I have made no such suggestion to the Chinese or Japanese in this case because I have deemed it most important not to run any risk of conflicting with the negotiations which have been conducted so skilfully by Monsieur Briand. Now having made the effort to support the position and the negotiations conducted by Monsieur Briand and the Council, I venture to make to Monsieur Briand this suggestion as a compromise for him to use in case of ultimate deadlock.

H[ENRY] L. S[TIMSON]

793.94/2479a : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, November 4, 1931—5 p. m.

218. Your 204, November 4, 5 p. m.

(1) Delivery of the memorandum should be made as soon as possible, and in any case within 24 hours, by either yourself or the Ambassador, and you should immediately inform me upon its delivery.

(2) I welcome the counsel you frankly give, and I understand and appreciate the views expressed by you. However, they are too late to have any effect on the contents of the memorandum—and, incidentally, this is to be delivered not as a “note” but as a “memorandum”—and it should be read to the Foreign Minister prior to being handed him. No comments will be needed, since I have given Debuchi here a copy of the memorandum and interpreted it to him at length.

(3) I shall comment later on the points you raised in your 204.

STIMSON

793.94/2476 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 5, 1931—10 a. m.

[Received November 5—5:10 a. m.]

873. Legation's 870, November 4, noon. Following two telegrams from Harbin:

“November 4, noon. Chinese officials here and at Tsitsihar deny that General Ma of Tsitsihar has received or is receiving military supplies or advice from Soviet Russia. During my 2 days stay at Tsitsihar, I could discover no details of such aid but that he had received a telegraphic communication from the Japanese Consul at Manchuria Station to the effect that a shipment of munitions had passed from Siberia through that place to the Chinese authorities.

Telephone reports received by me this morning from foreigners at Hailar indicate that there are no troop movement[s], Soviet or Chinese, nor unrest at or near that place and Manchuria Station.

I am inclined to believe that Japanese reports of Soviet troop movements threatening the Japanese army in Manchuria are propaganda spies [*lies?*] with the idea of enlisting outside sympathy for Japan and of ascertaining Soviet Russia's attitude and policy.”

“November 4, 5 p. m. Chinese radio station here has informed that [*us?*] that it has received from Tsitsihar reports to the effect that in the afternoon of November 3rd a Japanese airplane dropped leaflets over trenches of Tsitsihar soldiers near Kingansing Station located on the Tao-Ang Railway north of Nonni River, that in the evening some

Japanese soldiers crossed from the south [of] the Nonni and fired upon Tsitsihar soldiers, that early in the morning of November 4th Japanese soldiers (apparent omission) Chinese soldiers and that at 1 p. m. about 20 Japanese soldiers came over and fired, whereupon Tsitsihar troops returned a fire, causing the Japanese to retire.

2. I have not been able to check this report but believe that it is substantially correct.

3. Local Japanese [Consulate?] states that it has had no report of any fighting so far but that Japanese troops had departed from Taonan toward Nonni River Bridge."

Repeated to Shanghai and Tokyo.

For the Minister:
ENGERT

793.94/2484 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 5, 1931—10 a. m.
[Received 11:10 a. m.]

278. The following is the text of a communication dated November 3 from Sawada to Drummond:

"The Chinese Minister at Tokyo handed to Baron Shidehara on October 27th a note in which the Chinese Government requested the Japanese Government to appoint representatives to settle the details of the evacuation and the taking over of the evacuated territories in accordance with paragraph (5) of the resolution adopted by the Council of the League of Nations on October 24. In reply Baron Shidehara sent the Chinese Minister the following note dated October 31 which was published in Tokyo on November 3:

"Sir: I have the honor to acknowledge the receipt of Your Excellency's note dated October 27. In that note mention is made of paragraph (5) of a resolution of the League of Nations dated October 24. The Japanese Government desires to draw the attention of the Chinese Government to the fact that no resolution was adopted by the Council of the League of Nations on October 24. Your Excellency's note also expresses the Chinese Government's desire that negotiations should at once be opened with a view to the taking over of the territories evacuated by the Japanese troops in the Three Eastern Provinces. The Chinese Government had already expressed a similar desire in Your Excellency's note of October 5 to which I replied by a note dated October 9. The Japanese Government has announced the line of conduct it proposes to follow in order to settle the Manchurian incidents in a statement published on October 26 and it requests the Chinese Government to be so good as to refer to that document. The Japanese Government is most anxious that the Chinese Government should accept the views of the Japanese Government as expressed in that statement and should enter into negotiations with it as speedily as possible with a view to reaching an agreement on fundamental principles to form the basis for the restoration of normal relations between the two countries and also into negotiations with regard to the withdrawal of the Japanese troops into the South Manchurian Railway Zone."

The text quoted above has been made public by the Secretariat.

GILBERT

793.94/2480 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING [undated.]

[Received November 5, 1931—7:10 a. m.]

99. The following handed to me November 4, 6 p. m., by the Chinese Foreign Office, understood also released to the press:

"Mr. Tsiang Tso-ping, Chinese Minister at Tokyo, was instructed on November 3d by the Minister of Foreign Affairs to deliver a note to the Japanese Foreign Office in reply to its note of October 31 regarding the evacuation of occupied places in Manchuria. An English translation of the note which was prepared in Chinese follows:

"[I have the honor to acknowledge the receipt of the Japanese Government's note of October 31 and, under instructions from my Government, to make the following reply. The resolution of October 24 of the Council of the League of Nations calling upon Japan to withdraw completely before November 16 her troops now in occupation of the different places in the North Eastern Provinces in China, was adopted unanimously by 13 members of the Council. Chinese Government is confident that the Japanese Government will respect the pronounced intention of the world's supreme organ for the maintenance of peace by carrying out the said resolution. It must also be pointed out that, inasmuch as Japan fully accepted the Council's resolution of September 30, the League of Nations had believed that the Japanese Government would have immediately begun the withdrawal of troops and completed such withdrawal within 2 weeks. However, the Japanese Government failed to carry out this resolution. The Council was therefore obliged on October 24, to reiterate the previous resolution and again set time limit in order to accomplish the rest operation [*restoration?*] of the *status quo ante*. The Chinese Government, in accordance with the resolution of the Council, has invited the Japanese Government to designate representatives to discuss the details of evacuation and reoccupation. The Chinese Government is gratified to learn that the Japanese Government has also expressed its willingness, towards the end of its note under reply, to start immediately the discussion of such details. The Chinese Government has already appointed a committee for the reoccupation of evacuated territories and informed the Japanese Government to that effect. The Chinese Government again requests the Japanese Government to appoint representatives immediately to discuss the above-mentioned details with the Chinese representative with a view to the complete evacuation of the occupied areas before November 16. As regards the Japanese Government's view of the opening of negotiations concerning fundamental principles for reestablishing the normal relations between China and Japan, the Chinese Government is fully prepared, in accordance with the recommendations of the Council of the League of Nations, to commence negotiations, after completion of evacuation, on the questions outstanding between the two countries and to establish a conciliation commission of some such permanent machinery. But before the completion of the evacuation, the negotiations must be limited to the details of evacuation and reoccupation. Finally the Chinese Government wishes to refer the Japanese Government to its communication of October 31 to the League of Nations, in which its views regarding this matter are clearly set forth.]"

PECK

793.94/2493 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 5, 1931—noon.

[Received November 5.]

279. Department's [*Consulate's?*] 276, November 4 [3?], 10 a. m. The following is the text of a communication dated November 4 from

Sze to Drummond, together with its enclosure giving text of a cablegram received by the Chinese delegation from Nanking, dated November 3, concerning Japanese seizure of salt revenue in Manchuria:

"I beg to invite your attention to the attached information from Nanking, November 3, which unhappily more than bears out that serious view of the situation in Manchuria contained in the memorandum and covering note I handed you yesterday.

It is now clear that the Japanese army of occupation are pursuing a deliberate policy of trying to substitute for the authority of the Chinese Government the rule of various groups and individuals set up and maintained by the Japanese themselves.

Yesterday's memorandum predicted that a further step in this policy was imminent. It has now been taken: the Japanese military are confiscating the salt revenues and trying to divert them into the hands of the puppet authorities set up by themselves.

The serious harm to foreign interests need not be emphasized. It is further clear that this policy is a flat defiance of the Council's recommendations and a flagrant violation of the Covenant, the Pact of Paris, and the Washington Nine-Power Treaty. The situation is of the utmost gravity."

The text of the cablegram from Nanking reads as follows:

"Please inform the Secretary General of the League for circulation to the members of the Council and the representative of the United States that the Minister of Finance has received the following report from Dr. Frederick A. Cleveland, Associate Chief Inspector of Salt Revenue:

["The Japanese military authorities in Manchuria which have tied up the salt revenues since September 18th have now forcibly taken part of the accumulated revenues. The particulars are as follows: On September 19th the Japanese military authorities in Manchuria forcibly entered the district office at Newchwang since which time the Japanese military in occupation have exercised strict surveillance of all revenue transactions and revenue accounts in offices and collecting banks and have refused to permit remittances of funds to the National Government, asserting however they did not intend to expropriate funds or deprive the Government of its revenues.

Since September 18th large revenue funds have accumulated which are of two kinds: (1) duties paid in advance in free-trade areas of Mukden; (2) funds of the Government trading monopoly of Kirin and Heilungkiang Provinces called "Kihei". About October 8th Kihei monopoly sent to the district inspectorate of Newchwang its check for \$1,080,000 drawn on its depository bank but payment was interdicted. Ascertaining that check was fully covered by deposits the inspectorate continued to release salt required for distribution to Government monopoly on credit. Accumulated deposits of duty paid in advance at Newchwang amounted to \$670,000 and at Changchun for Kihei account to \$2,600,000 on October 29th.

October 31st at 10 a. m. Mukden district inspectorate telegraphed to the inspectorate that the manager at the Newchwang branch, Bank of China, handed us on the 30th at 8 p. m. a letter stating that at 11 a. m. today paymaster Iwase of the Japanese military headquarters, adviser Tamada Shigeji of the Provincial Government Bank and Provincial Finance Bureau (newly created office) and staff officers of Provincial Government Bank with armed men came to his bank, demanded handing over salt revenue collections. This was refused but finally at 4 p. m. \$672,709.56 was taken away. It was only after repeated negotiations that a Provincial Finance Bureau's sealed receipt signed by Tamada was obtained. Under such circumstances we could do nothing.

Demands [for] Kihei deposit at Changchun, \$2,600,000, are being made by persons claiming [to] represent certain groups, which have suddenly sprung [up], and monopoly since Japanese military occupation. Active agents of these groups, as in the case of expropriation of funds at Newchwang, seem to be so-called Japanese advisers. These representatives have threatened to use force in case said deposits at Changchun are not released to them.

Chief inspectors have instructed local representative[s] that in no case are they to yield to demands for funds subject to its control for two reasons: first, because such consent would constitute breach of trusteeship; second, because these large sums on deposit, if held under Japanese control or diverted to uses of persons who are unfriendly to recognized authorities, might be potent resource to stimulate opposition to Chinese National Government and foment revolution.

In addition to foregoing another form of exploitation is threatened, namely: diversion of revenues as they currently accrue. Average collections for the three North Eastern Provinces have been approximately \$2,000,000 monthly. After deduction of expenses and quotas for service of foreign loans secured on salt, there is an average net balance of \$1,600,000 monthly. Repeated demands have been made that this monthly surplus be turned over to persons and groups who have support and cooperation of Japanese military authorities in occupation.

Salt inspectorate has been instituted as agency for collecting and conserving salt revenues for foreign loan service and other uses and purposes designated by National Government. Against estimated total annual collections, \$170,000,000, various appropriations and commitments have been made which, including expenses, service of foreign and domestic loans and authorized transfers to local authorities, amount to about \$125,000,000 yearly—about 70 percent of estimated total salt revenue. In existing emergency chief inspectors deem it their duty to lay these important impairments of public revenue before you.[""]

The texts of the above communication and telegram have been made public by the Secretariat.

GILBERT

793.94/2472 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

Tokyo, November 5, 1931—4 p. m.

[Received November 5—6:57 a. m.]

206. Your 218, November 4, 5 p. m. At 3 p. m. today I delivered the memorandum. My talk with the Foreign Minister was long and conciliatory; I shall transmit a summary later.⁵⁵

FORBES

793.94/3161

*Memorandum by the Ambassador in Japan (Forbes) of a Conversation With the Japanese Minister for Foreign Affairs (Shidehara), November 5, 1931*⁵⁶

After a few exchanges of greetings I read very carefully and slowly, emphasizing the telling phrases, the whole memorandum of Secre-

⁵⁵ *Infra.*

⁵⁶ Copy transmitted to the Department by the Ambassador in covering letter of November 7; received November 23.

tary Stimson of November 3, 1931, to Baron Shidehara,⁵⁷ informing him that I was instructed to read it aloud to him and that a copy of it had already been handed to Ambassador Debuchi in Washington. He gave no expression of surprise upon receiving it, but later he asked me whether it had been given to the public or was to be published. I replied that we in Tokyo should certainly not give it to the public, and that I assumed Mr. Debuchi would not, but could not answer for the State Department.

The first point that Baron Shidehara raised was asking exactly what was meant by the words "integrity of government". I told him that in my opinion it involved completeness of the exercise of sovereignty, that the integrity of government was impaired where control of the civil administration was discontinued or interfered with. I suggested we look up the exact meaning of the word; which we did. And I found, in the Standard dictionary which he had there in the office, under the second classification, the exact support of what I think it means, and pointed it out.

Baron Shidehara then stated the Japanese were not exercising control of the civil administration of the occupied areas—that was being conducted by the Chinese themselves who had organized defense committees and were administering their government locally. He said most of the civil officials of Manchuria had moved out. He commented that many of the civil functions were being performed by men who were also military commanders.

Baron Shidehara then laid stress upon the attitude of Japan toward China in the days of early treaties (I think probably one by Secretary Hay), in which Japan had opposed the partition of China and had recently stood and continued to stand for the integrity of China. He was very definite about not wanting to do anything that would impair the sovereignty of China in Manchuria or in any other Chinese possessions. Passing on, he said that the position of Japan was that they wanted China to agree to five main points, which he described as being fundamental principles; and when these were agreed upon Japan was perfectly ready to withdraw their troops. He made it very clear that there were several hundred points at issue between Japan and China, questions involving injuries and damages to individuals and property, invasion, violation of treaty rights, etc., etc. Sometimes several hundred were under one heading, which he intimated it might take years to determine. He said they had not the least idea of retaining their troops there until those points were settled.

⁵⁷ See telegram No. 217, November 3, 1931, 6 p. m., to the Chargé in Japan, *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 34.

The five things that he said should be settled before the withdrawal of troops were as follows, and suggested a mutual agreement binding upon both China and Japan:

(1) Agreement against any aggression on either side against the other.

(2) Preservation and guarantee of integrity of the territory pertaining to each one.

(3) Discontinuance of government sanction of boycotts, discrimination against Japanese merchants, or other economic action injurious to the interests of Japan. (In this connection it was pointed out to him that many of these acts were due to the manner in which the Japanese had pressed their claims, the fact that Japan had taken so aggressive a position, and that it was absolutely out of the power of any government to compel people to begin buying again from Japanese merchants, that where it was an act of individuals it was entirely within their rights. He said: "Yes, but this has gone further". People, he said, had been ordered under threat of being killed not to deal with the Japanese. It was pointed out to him that this boycott was widespread and in a sense world-wide. I told him of a bank in Seattle, Japanese owned, that had to close its doors because of the withdrawal of deposits of Chinese, and that no government could make their people buy Japanese goods or from Japanese merchants if they did not want to do so. He said he understood that completely and that he recognized that Japan had to recognize the right of people to express their disapproval of a course adopted by a country, by declining to deal with its merchants or buying its merchandise. But he said again that this had gone farther, and that societies of Chinese were actually operating, threatening violence and practising violence, undeterred by their government, upon people desirous of trading in Japanese goods or with Japanese citizens. He insisted on protection, so that people in Chinese territory should have freedom of action in this respect.[]]

(4) They demanded protection of lives and property of Japanese and Koreans. He assured me that were Japanese troops withdrawn from Manchuria there would immediately be acts of violence against the lives and property of Japanese and Koreans resident in Manchuria, and that assurance of the protection of these was essential. This seems to me to be the real crux of the entire proposition and the one vital thing requiring some sort of adequate assurance. I did not, however, say that to him.

(5) The fifth point he mentioned was the recognition of treaty obligations, which also would be mutually agreed to both by Japan and China. I asked him if he had reference among other things to the Chinese levy duties on coal, contrary to the treaty agreement. He said: "No", and that that had already been settled by adjustment and compromise. He cited a controversy between China and Japan concerning a certain tract of land claimed by Manchuria and Korea which had been settled by compromise, the land being granted as pertaining to Korea, and that the Chinese had agreed to build a certain railroad to the Korean frontier, which would add greatly to the prosperity and value of the Korean territory tributary to this region. Years had gone by, he said, and nothing had been done by the Chinese

to complete their share of the bargain, namely, the construction of this railroad, and all that the Japanese had been able to get were evasions.

As I understood him, what the Japanese wanted now was an affirmation of the intention of the Chinese Government to observe these treaties in principle, not that the evacuation should wait for the completion of the works.

I took occasion to inform the Minister, as I had been instructed to do from Washington, that the United States did not desire to intervene in the terms of settlement, did not expect to act as agent in determining to any degree how these various claims, etc., should be adjudicated, but that our interest was in maintaining friendly relations both with Japan and China; that we entered upon this scene in a spirit of entire friendliness, and that we were very earnest in our desire that the matter should be settled by peaceable means and that we proposed to use the influence of the United States to the fullest extent possible to discourage a resort to acts of war or settlement of any of these problems by violence.

The Minister took the document up and began reading it over and advised me that I could inform my government that it would receive his most earnest consideration and that of his government. He then again commented on some of the details, reading over the two questions outlined in the message, and he stated that he did not see how they could withdraw troops until China and Japan had agreed upon these five general principles. I emphasized the fact that the United States felt, as indicated in the memorandum that military pressure should be not employed to force the acceptance by China of these general terms. And that in the present situation it was clear that military force was being employed. He replied that he entirely agreed that military pressure should not be used to bring about a determination of the various points at issue, but that they simply could not withdraw their troops until they were assured of protection of their citizens.

I did not raise the point, but personally I do not see how, with the present disorganized state of government, they have in China any organization capable of giving adequate protection to Japanese and Korean citizens, even if China did agree to settle the five points; and I see no disadvantage to them in accepting them (the five points).

The conversation then moved to the fighting now going on in connection with the bridge at Nonni. I had previously learned that this Chinese railroad had been built assisted by an issue of bonds which had been taken by the South Manchurian Railway, payment of interest on which was in default. This gives, and with the customary practice prevailing in terms of mortgages—and I do not doubt it is amply provided for in this mortgage, a direct interest and perhaps the right

of intervention on the part of the South Manchurian Railway in the affairs of this railroad. The destruction of the bridge in question operates disadvantageously to the South Manchurian Railway from two points of view: First, from the capital point of view, being the destruction of property secured by mortgage held by a Japanese-owned railroad whose interests under the treaty the Chinese are bound to protect. And, secondly, from the operating point of view: that the bridge gives access to a territory that customarily ships a considerable amount of produce out, especially at this harvest time of year, principally, I believe, consisting of soya beans, and which was cut off with the destruction of the bridge, to the disadvantage of the South Manchurian Railway, also in contravention to the treaty. The Japanese claim under the treaty the right to enforce the restoration of the bridge. The Chinese have questioned this right and resisted it by force.

Speaking of young Marshal Chang, Baron Shidehara said he was very clever but at heart bitterly opposed to the Japanese, and that they had received information that satisfied them that he had directed this operation and had instructed Chinese soldiers to perform a number of provocative acts to bring on fighting, in which he had been apparently successful. (Note by W. C[ameron] F[orbes])

Baron Shidehara, in speaking of the South Manchurian Railway, mentioned the construction of competing lines by the Chinese. I immediately parried by saying that to stop unfavorable construction would paralyze the growth of Manchuria; that I had been a witness of the marvelous growth in the United States of the value of land, and of the increase in productivity in our West, by the construction of railroads; and that if every time the Chinese wished to develop a region the Japanese, on the ground that such railroads might take business away from existing railroads, they would be in a position to absolutely block the proper and normal development of the region. I also said that everybody knew that whenever one of these lines developed a region it had to have termini in the largest cities and ports in order to get a market for the produce of the country developed, and that these lines reaching the termini made it possible for these railroads to get through traffic which would in itself compete, of course. I wondered whether the Japanese idea was to impede the normal and proper development of the country in order to enhance the earnings of their roads.

To this Baron Shidehara replied that they realized all that and were perfectly willing to permit the construction of such railroads, but that for through traffic there should be a pooling arrangement and agreements in regard to rates such as was common in similar situations in the United States, so that there would not be ruinous

competition and rate cutting. This seems to offer an opportunity for a reasonable solution of one of the major problems which had troubled them.

793.94/2482 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, November 5, 1931—4 p. m.

[Received November 5—10:15 a. m.]

874. Legation's 859, November 2, 4 p. m. I gather from interviewing Dr. Wellington Koo informally that the Chinese Government is much disturbed by the turn of events, especially by Baron Shidehara's uncompromising attitude and by the recent opinions of the foreign press favorable to Japan. Dr. Koo stressed the "national" aspect of the commission of which he is chairman, with members representing various parts of China and, he believes, personally acceptable to Japan. I gained the impression that Koo was implying that the commission may be called upon ultimately to deal with problems more serious than those for which it was appointed and that perhaps Nanking had become more reconciled to possible negotiations with Japan, if not before, at least at the same time as evacuation of Japanese forces into the railway zone gradually took place.

The Minister has been informed.

For the Minister:

ENGERT

793.94/2492 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 5, 1931—6 p. m.

[Received November 5—2:15 p. m.]

280. Consulate's 272, November 2, 6 p. m. [9 a. m.]⁵⁸ The Secretariat has given publicity to Briand's note to Yoshizawa.⁵⁹ It is believed that Briand took this decision with regard to publicity because he did not wish to wait longer for a Japanese reply which, according to information from the Secretariat, has not been received up to date.

GILBERT

⁵⁸ Not printed.

⁵⁹ See telegram No. 270, October 31, 9 a. m., from the Consul at Geneva, p. 345.

793.94/2503a : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

[Paraphrase]

WASHINGTON, November 5, 1931—3 p. m.

126. The text of a confidential telegram, No. 217, November 3, 6 p. m., to the Embassy in Japan is quoted below. On November 5 the memorandum was read and delivered to the Foreign Office at Tokyo. The text is as follows:

[Here follows text of the Department's No. 217, printed in *Foreign Relations*, Japan, 1931-1941, volume I, page 34.]

The text of the memorandum may be read by you in confidence to Drummond.

You should explain to him that I regard this memorandum as this Government's representation to the Japanese Government and therefore am not making the text of it available to others. To the French Ambassador here I have read the text and made extensive comment on it. He is to report my action to M. Briand.

You should point out, regarding the memorandum's contents, that my special objective has been to clarify for the Japanese Government the fact that the objectives of this Government and of the League Council are identical in seeking the prevention of war and the bringing about of a solution by peaceful means. Please point out my endorsement has been indicated of the League's effort and action as expressed in the September 30 and October 24 resolutions, but, as to the October 24 resolution, I have, while invoking its spirit, refrained deliberately from mention of the time limit and have avoided thus expressing any view whether favorable or unfavorable regarding this particular feature of the resolution. You should point out that I have laid stress upon the view that a condition precedent to evacuation of Japanese armed forces should not be made of the settlement of long-standing issues and that the Japanese Government should not avail itself of the presence of these armed forces as an instrumentality to bring pressure to bear on China during the negotiations. You should say to Drummond that I consider this to be fundamental and feel it is imperative for it to be understood that we are for the same fundamental principles.

Inform Drummond further that the contents of this communication to Japan are not receiving publicity from me and that, while he may inform the Council members of my representations in the sense above indicated, I trust he will be very guarded in disclosing the substance. My suggestion is that Drummond inform them merely that I have made representations which support the position of the Council regarding what I have referred to in the foregoing as fundamental.

STIMSON

793.94/2466 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, November 5, 1931—6 p.m.

409. Your November 4, 10 a. m.⁶⁰ See Department's 103, October 27, 5 p. m., to the American Consul at Nanking for the Minister.

1. If you deem it necessary you may instruct Peck to reply orally to the Acting Minister for Foreign Affairs as before (reference your November 2, noon).

2. For your confidential information the Department understands that the Chinese authorities have been privately advised by officials of the League, through unofficial and confidential channels, that the Chinese Government should exercise great prudence for the present in this matter inasmuch as the Council resolution of October 24 lacks binding force as unanimity was not reached.

STIMSON

793.94/2457 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, November 5, 1931—7 p.m.

410. Your 868, November 4, 10 a. m. Also see Department's 397, October 27, 5 p. m.

1. Please inquire of Consul General at Mukden under what control and personnel the Mukden radio will be operated.

2. Who is expected to give to Japanese Consulate General the technical information mentioned?

STIMSON

793.94/2501 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 6, 1931—11 a.m.

[Received November 6—1:30 a.m.]

877. Following two telegrams from Harbin:

"November 5, 10 a. m. 1. My telegram of November 4, 5 p. m.⁶¹ Local Japanese Consul General Ohashi telephoned me early this morning that a messenger who arrived this morning from Tsitsihar informed him that Japanese troops crossed Nonni River on November 3rd and 4th for reconnoitring purposes, that they were fired upon by Tsitsihar troops, the [that?] withdrawal order had been agreed upon but not carried out, that shots were exchanged, that the noise of an

⁶⁰ Minister's unnumbered telegram from Shanghai, p. 364.

⁶¹ See telegram No. 873, November 5, 10 a. m., from the Minister in China, p. 371.

airplane had been heard at Angangkí and that late at night at that place heavy artillery firing could be heard. Ohashi also said that the Japanese Consul at Tsitsihar had gone with a Chinese official to the scene of the fighting to stop the same, which appeared to be due to the failure of the Chinese troops in the advanced positions of two kilometers from the bridge to receive in time orders to withdraw.

[2.] Harbin Chinese radio station has just informed that it learned at 10 p. m. last evening that serious fighting commenced at 5 p. m. last evening between Tsitsihar troops and Japanese soldiers, the latter being supported by airplanes, which dropped bombs and caused many casualties among the Chinese soldiers."

"November 5, 5 p. m. Local Chinese radio station has informed me that Tsitsihar troops have retreated from vicinity of Nonni River toward Tsitsihar.[""]

For the Minister :
ENGERT

793.94/2502 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 6, 1931—noon.
[Received November 6—4:37 a. m.⁶²]

878. Following from Consul General Mukden, November 5, 5 p. m. :

"Japanese headquarters this morning released a message regarding fighting with Ma Chan-shan's forces which is substantially as follows:

"Japanese forces crossed Nonni on ferry, found two more bridges farther north destroyed and northward still a third damaged, at which place they were approached by Chinese with a flag of truce when suddenly fired upon from all sides by artillery, machine guns, and rifles, killing 3 Japanese and wounding others. Fighting was still in progress last night, Japanese forces reported to be in a difficult position with estimated 5,000 Chinese supported by artillery occupying surrounding hills. Bridges stated to be 30 and 35 miles south of Angangkí at Chiangchiao Station and within 10-kilometre zone. Japanese allege intercepting a telegram from Ma to Marshal Chang [which?] reports the repulse of small Japanese detachment and boasting that he will paint all Manchuria red with the blood of Japanese troops.[""]

Information from another Japanese source indicates Japanese dead 15, troops engaged 500, Japanese forces pushed on to Tahsin, then retired south of Nonni where they are awaiting reinforcement of two infantry battalions coming from Kirin. Fighting was preceded by parley between Japanese officers and Ma who gave assurance that Japanese repairing operations would not be interfered with."

Repeated to Shanghai.

For the Minister :
ENGERT

⁶² Telegram in two sections.

793.94/2512 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 6, 1931—noon.

[Received 2:39 p. m.]

282. I have just received, delayed in transmission, from the Secretariat a copy of a memorandum of the Chinese Government transmitted by Sze on October 31st to Drummond in reply to the Japanese declaration of October 26th ⁶³ (Consulate's 263, October 28, 11 a. m.⁶⁴).

This forms part of a series of such exchanges which frequently assume importance through being cited later in the negotiations. The memorandum introduces no new elements but restates and emphasizes certain main principles of the Chinese position with particular reference to the Council's draft resolution of October 24th. The following is a brief summary of its contents:

1. The very presence of Japanese troops in Chinese territory creates the danger of which the Japanese now complain in regard to anti-Japanese feeling and insecurity of Japanese nationals. In support of this view the memorandum cites Briand's statement on this point to the Council on October 24 and quotes the reply of Secretary Hughes ⁶⁵ to the Japanese statement ⁶⁶ to the Washington Conference to the effect that the Japanese Government could not withdraw its troops from Eastern Siberia without endangering the lives of its subjects and that it deemed necessary the occupation of Russian territory as a means of assuring a suitable adjustment with a future Russian Government.

2. The memorandum reaffirms the ability of the Chinese Government to insure the safety of Japanese lives and property in proportion as the evacuation is effected and to that end reiterated its willingness to extend the system of neutral officers or with the help of the League to devise any other arrangements on the spot.

3. The Chinese Government notes with satisfaction the Japanese denial of any intention to bring armed pressure to bear in negotiations with China but points out that if this be the view of the Japanese Government the only way to give effect to it is to cease to demand as a condition precedent to the evacuation of its troops, that China come to an agreement with Japan on basic principles which are to govern the whole of the future relations of the two countries. Giving effect to evacuation and guarantees of security involves nothing more than local arrangements on the spot and could be accomplished in a few days.

4. Suggests for settlement of Sino-Japanese questions the appointment of a permanent board of conciliation.

GILBERT

⁶³ For text of Japanese declaration, see statement issued at Tokyo, October 27, by the Japanese Government, p. 336.

⁶⁴ Not printed.

⁶⁵ See *Foreign Relations*, 1922, vol. I, p. 367.

⁶⁶ *Ibid.*, p. 364.

793.94/2588

Memorandum by the Under Secretary of State (Castle) of a Conversation With the Japanese Ambassador (Debuchi), November 6, 1931

The Japanese Ambassador came in to tell me that he had had a telegram from Baron Shidehara about the fighting at Nonni River. The Ambassador says that when the Japanese determined to repair the bridges and to send troops to protect the construction gangs and engineers, the Japanese Consul in Tsitsihar requested General Ma to instruct his troops in the vicinity not to interfere with the Japanese troops. This General Ma agreed to do. Apparently his instructions did not reach the troops at the front, which attacked the Japanese quite suddenly with machine guns and field artillery. There were fifteen Japanese casualties. Baron Shidehara very deeply regrets this incident. He reiterated the definite intention of the Japanese Government, however, to withdraw all the troops as soon as the construction work was done. It is estimated that this will not take at a maximum more than ten days and it is hoped that it may be completed within a week.

The Ambassador says that there is no intention of sending troops to Tsitsihar. This would probably be provocative to the Russians and Japan has no desire to get in a conflict with the Soviet.

The Ambassador says that unfortunately, the fact that there had been written communication to the Japanese leaked out both in Tokyo and here. I think that he felt that Mr. Byas⁶⁷ probably got the information from Mr. Forbes, and in this I am inclined to agree. The Ambassador said that in speaking to the press he would say that he knew instructions had been sent to Mr. Forbes and that it was perfectly possible that Mr. Forbes had left a memorandum of his conversation, although he had not delivered an official note from this Government.

W. R. CASTLE, JR.

793.94/2547

Memorandum by the Secretary of State of a Conversation With the French Ambassador (Claudel), November 6, 1931

The French Ambassador came in to read to me a memorandum which he had received from Monsieur Briand. His translation is annexed hereto. He will send me a formal translation later to take the place of this one.⁶⁸

⁶⁷ Hugh Byas, Tokyo correspondent of the *New York Times*.

⁶⁸ *Infra*.

He wanted to know what had happened to our representations to Tokyo and I read to him the telegram No. 209 of November 6, which I had received from Forbes.⁶⁹ He thought that the last paragraph presented a very serious situation. He said that hitherto he had been hopeful that Shidehara and the peace party would keep in control but now he feels that the military party are following out a plan which they have had in their minds from the beginning and that no one can tell where it will lead. He asked me whether we were going to send any ships, saying that the lives of foreigners might be endangered in cities on the Yangtze and other places. I told him that we already had an Asiatic squadron there sufficient to deal with any trouble and in my opinion sending any further ships out there would only result in adding flame to the fire. He expressed fear that now that the Japanese merchants have been boycotted and they stand to lose everything, they would join with the military party to seek to get all they could by war. I told him that I thought that, while we could not see our steps in detail, the principal objective was clear, that is, that we should preserve a united front among the other nations of the world and he agreed to that. I asked him what he thought it would do to the disarmament conference. He laughed and said that he had never thought there was any show for the conference but this made it doubly impossible and he thought, as his own personal opinion and not the opinion of his Government, that the best thing to do would be to postpone it until a later date.

He then told me that he had talked with General Pétain and Pétain had told him that plans were on foot in France to completely change the organization of the French Army in such a way as to be more agreeable to Germany; that their present system was both expensive and ineffective. The new plan would be to create a professional army, supplemented as in the case of America (he said) by a militia. This made it less expensive than the old system but he thought it would be more effective and more like the English system. I made no comment.

H[ENRY] L. S[TIMSON]

793.94/2547

*The French Embassy to the Department of State*⁷⁰

INFORMATION FROM PARIS—NOVEMBER 6TH, 1931

The Chinese Government has declared its readiness to comply with the Resolution of the Council of the League of Nations of October 24th, especially with its article 4.

⁶⁹ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 38.

⁷⁰ Memorandum received by the French Embassy from M. Briand; formal translation received in the Department November 7.

The latter provides for the obligation for China, in view of taking control over the territories evacuated by the Japanese, to take the necessary steps to preserve security, representatives of other powers being duly attached to the Chinese authorities appointed for that purpose.

The Chinese Government has therefore convened a committee under the chairmanship of Mr. Wellington Koo and has indicated to the foreign ministers in China, that the appointment of the representatives, provided for in article 4, should be made and their names given as soon as possible.

The French Government has instructed the French minister in China to answer to the Chinese Government, as his British colleague has done, that the French representatives will be ready to go when their presence is required and when the other powers have appointed their respective representatives.

Furthermore, the French Government has authorized Mr. Wilden to give to the Chinese the names of its eventual representatives as soon as his colleagues are instructed to do likewise.

It is a matter of interest that this attitude which befits the present situation should be adopted by the other powers./.

793.94/2506 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 6, 1931—5 p. m.

[Received November 6—1:05 p. m.]

284. Sze has sent a note dated November 4 of about 1,000 words to Drummond commenting on the Japanese Government[']s reply to the identic telegrams sent from Geneva on October 17th by signatories of the Pact of Paris. Inasmuch as that note seems to contain no new elements but is a mere restatement of the Chinese on the points raised, the text will not be sent by telegraph but is being forwarded by mail.

GILBERT

793.94/2534 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, November 7, 1931—9 a.m.

[Received 4:44 p.m.]

285. (1) Your 126, November 5, 3 p. m. As soon as it was decoded yesterday afternoon, I conveyed the message therein to Drummond.

He expressed his opinion most strongly that the contents of the American memorandum to the Japanese Foreign Office and the terms in which it was couched most satisfactorily fitted into the picture of the present negotiations as he saw them, so that the American *démarche* should prove to be of invaluable assistance.

(2) Drummond will strictly conform to your stipulations in regard to the confidential nature of the American action. For his own reasons he will, for the present, not inform all of the Council members but merely the members of the Committee of Five. To the others he will only make reference, as occasion arises, to reports of the American press in the premises and comment that these seem to be well founded and that he is himself giving them full credence.

(3) Drummond then discussed a matter associated directly with the above and which bears on your 122, October 30, 5 p. m. He made some observations he wished conveyed to you, as he feels you would understand fully the spirit in which they are being made. Naturally he is closely in touch by telephone with Paris. Drummond mentioned a situation in Paris which I likewise sensed in my contacts with delegations here during the last session of the Council. In France as well as in the French press there are pro-Japanese elements, and these are related in part to the sales by French munition manufacturers to Japan. This also is reflected somewhat in the French Foreign Office, with Briand far ahead of the latter in respect of the manner in which France and the League conduct the Sino-Japanese question. Briand's policy is supported entirely by Massigli, while Leger, who supports Briand personally, is inclined toward Japan as a phase of French foreign policy. As I have previously reported, Berthelot is more or less frankly pro-Japanese. Therefore, a great deal depends upon support for Briand's leadership. Drummond learned in a telephone talk with Massigli that communications through the French Ambassador at Washington to Paris were very unsatisfactory. Drummond was told by Massigli that Briand was not at all clear in regard to the American memorandum to the Japanese Foreign Office, cited above, and was quite confused by what Claudel had reported on the whole American position. Since a common understanding appears to me at this time to be desirable among the limited number directly concerned, I venture in these circumstances to suggest following a procedure (similar to that in my relations with Drummond) of conveying information to Briand through our Embassy in France. As a case in point, to make available to Briand the text of the American memorandum to the Japanese would, I feel, be of assistance now, not only because a clear knowledge of the American position might be useful to him but particularly because he seems to have had a garbled version. The clarification of previous communications with Paris

might also be of assistance to him. It strikes me as important for Briand to be informed in person of these matters.

(4) As indicated above, Drummond is aware of American relations with Paris. He inquired whether contact was being kept also with London, and I said I had no information on this score. He requested that I ask you if it might not be useful. In this entire matter there is no question at all of Paris, London, and Geneva being the focal points respecting both League policy and national policies (see paragraph 8 of my 274, November 2, 11 p. m.). During the Council session here I noted that the French and British delegations consulted frequently prior to making decisions and that often the French waited for the British to lead or concur. As a recent case in point, with regard to the association of neutral observers with the Chinese (see my telegram 274), Drummond said he had been informed by Paris that in this particular they would conform to British policy. So a like classification of the American position in London might be considered. No other capitals, in my opinion, come into the picture at present.

(5) Drummond is not giving out anything in Geneva regarding the relations of the United States with the League. Indications of the American position expressed in the memorandum previously mentioned are carried by press reports from Tokyo and Washington. These, however, are couched in general terms only, with the exception of a Tokyo report which says the United States has not made representations concerning the time limit for evacuation by the Japanese. The American press representatives in Geneva are greatly excited, and it is hard to tell what may be telegraphed home by them to their papers. I think I may say in confidence, however, that any report appearing in the press as derived from "a high official of the League," or using some such term, is not based upon the statement of any responsible League official. Judging from the situation here, Drummond and I both are inclined to think, and you will perhaps agree, that a statement of his being "satisfied" with United States relations with the League of Nations might be interpreted by the press to indicate there was something mysterious afoot, probably in the way of American commitments, which would make American relations difficult with the press. For my own general guidance, I would appreciate your comments as to this point. Drummond, of course, will be glad to act as vehicle for any statement which you might desire him at any time to make public.

GILBERT

793.94/2518 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 7, 1931—10 a. m.

[Received November 7—4:10 a. m.]

883. Legation's November 6, noon. From Mukden:

"Engagement larger than at first reported. Japanese number their dead 41, wounded 100. Apparently Kirin reinforcements have arrived and are now engaged.

Referring to my despatch of October 14th, Lin Yin-ching reported captured by bandits at his headquarters November 3rd."

Repeated to Shanghai.

For the Minister:

ENGERT

793.94/2527 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, November 7, 1931—11 a. m.

[Received 1:30 p. m.]

287. Sugimura has been doing what he can in conversations in Paris and London with the Japanese, British, and French in order to work out a solution regarding the Japanese "demands" which would be acceptable to Japan.

In substance his project is as follows: Two sets of negotiations should be begun simultaneously between Nanking and Tokyo, the first to comprise questions concerning evacuation and the taking over of territory evacuated, the second to cover questions concerning the "five points". The first four of these points refer to security and come, therefore, within the scope of the Council resolution of September 30. The fifth point remains, and the Japanese maintain that a part of this concerns security. This part, therefore, can also be considered to be in conformity with the resolution of September 30. Clarification would be needed of Japan's view in regard to the rest of the fifth point which cannot be taken as referring to "security". This part of the fifth point would not be treated pending the completion or virtual completion of Japanese evacuation.

Sugimura was informed by Yoshizawa that he would transmit this suggestion to his Government, though he failed to say he would give it his support. Sugimura's conversations, it should be understood, are being carried on entirely on his own authority. However, I understand both Paris and London are inclined to regard such a solution as offering a possible way out of the current situation.

GILBERT

793.94/2526: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 7, 1931—3 p. m.

[Received 6:11 p. m.⁷¹]

884. Following from American Consul General at Harbin:

"November 6, 1 p. m. 1. Chao Chung-jen, who is Secretary of State [*sic*] Heilungkiang Provincial Government, who was formerly Taoyin at Hailar and whom I have known for many years, arrived from Tsitsihar yesterday, called on local Japanese Consul General last night to arrange if possible a peaceful settlement of the conflict between Tsitsihar and Japanese troops and called on me this morning for a suggestion in regard to how to end this conflict.

2. The following is Chao's version of their clash:

"The first line defense of the Heilungkiang troops is along the fairly high bluff over 5 miles from the main bridge across the Nonni River and to the east of the Taolang Railway Station at Tashing. Here about 2,000 Chinese soldiers with artillery had dug themselves in. (I myself observed this position and these soldiers on November 1st. G. C. H[anson])

Moro [*Near?*] Tashing is a wooden bridge, which had been slightly damaged by Heilungkiang soldiers. Farther south is another wooden trestle bridge which was intact, and still farther south another which had been entirely burned by Heilungkiang troops. About a mile from this bridge is the large bridge across the Nonni, one or two spans of which had been destroyed by the Heilungkiang troops. Just beyond the burned bridge was a train of one cold locomotive and two cars which were occupied by an advance guard of about 20 Heilungkiang soldiers (I saw these bridges, train and advance guard November 1st. G. C. H.). On November 3rd Japanese troops approached at the southern end of the main bridge. Next morning some of them crossed the river. Chinese advance guard fell back toward the front line position but three were disarmed and made prisoners by the Japanese, who claimed that the Heilungkiang troops should have moved back north 10 kilometres from the first bridge to the above, while the Chinese claim 10 kilometre limit was north from the main bridge. Several hundred Japanese soldiers advanced toward the Heilungkiang troops and ordered the latter to retire. Upon meeting a refusal because the Heilungkiang troops were not anxious to leave their trenches to retire across open country possibility [*possibly?*] under Japanese fire, the Japanese troops attacked them with rifle and artillery fire, bombs from airplanes and the Heilungkiang troops replied. Fighting continued during all day of the 4th and 5th, stopping this morning.

Heilungkiang army has a limited supply of ammunition and do not expect any help from Soviet Russia. Therefore, it could not expect to hold out against the Japanese Army which can be endlessly supplied through Taonan. Local Japanese Consul General stated that the only solution of the problem was for General Ma, who was being held responsible for the killing of Japanese troops in the last 2 days' battle, to resign, otherwise the Japanese would not cease fighting. A report of this was made to Tsitsihar last evening and another visit would be made to the Japanese Consul General this morning."

I am inclined to believe the above is a fairly correct report of the incident.

Alarming rumors are current to the effect that the Chinese troops from other parts of North Manchuria including Harbin are concentrating near Tsitsihar and that they expect Soviet Russian support such as munitions and a Soviet guard for the Chinese Eastern Railway.

Ohashi, the local Japanese Consul General, attempted yesterday at lunch to impress on me and Hallett Abend, correspondent of the ["New

⁷¹ Telegram in five sections.

York Times"¹ who is here and expects to leave for Tsitsihar this afternoon, the existence of Soviet support to General Ma, who without this support or assurances of the same would not have resisted the Japanese troops. He also tried to persuade Abend not to go to Tsitsihar but to Manchuria Station at the present time, alleging that situation at former place is dangerous.

It is Japanese Consul General's personal opinion that the present clash in Manchuria is merely Japanese preparation for a greater clash with Soviet Russia later on.

There are persistent rumors that Japanese troops are being withdrawn from Kirin city and Changchun and departed via Taonanfu to point to [to reinforce?] troops at the Nonni River.

Chinese Eastern Railway district engineer Hsu, stationed at Tsitsihar station of this railway, has just reported to Kuo, Chinese assistant manager, that 4,000 of General Chang Hai-peng's troops had crossed the Nonni and are now engaged in fighting with the Heilungkiang forces, which have surrounded 2,000 of the enemy.

Reports from Tsitsihar city indicate that wealthy Chinese citizens are leaving that city, where there are four American missionaries (Mr. and Mrs. J. G. Vos, 52 Mercer Street, Princeton, New Jersey; Miss Reba Huston, Blanchard, Iowa; Miss Lillian L. McCracken, Beaver County, Pennsylvania), but conditions there are not dangerous. The missionaries have been requested by me to prepare to withdraw to Harbin in case the situation becomes dangerous. Reports on Tsitsihar station indicate that Japanese and Koreans in that region have practically all withdrawn and that Chinese residents are fearful of being robbed by the Chinese troops, which so far have behaved well. Telephone report just received from Hailar states all quiet there."

To Shanghai by mail.

For the Minister:
ENGERT

793.94/2524 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 7, 1931—6 p. m.
[Received November 7—10:45 a. m.]

885. Following from Mukden, November 7, 11 a. m.

["Engagement on Nonni concluded by Japanese occupation of Chinese positions and withdrawal of Chinese to the north. Japanese reported to be strengthening position, forces consisting of 2,000.

Tenney² leaving for Harbin tonight."

Repeated to Shanghai.

For the Minister:
ENGERT

² Capt. Parker G. Tenney, Assistant Military Attaché at Peiping.

793.94/2528 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 8, 1931—11 a. m.

[Received November 8—6:40 a. m.]

888. Following from American Consul General at Harbin:

“November 7, 11 a. m.

1. Secretary of Heilungkiang Provincial Government Chao informed me late last night that joint attack of Chang's troops of about 3,000 regulars and 3,000 brigands and Japanese of about 1,000 with 2 armored trains increased strongly between 10 and 11 a. m. yesterday and that after severe fighting in which Japanese aeroplanes participated, Ma's troops retreated from first line of defense through Tashing to second line of defense, passing Sanchienfang 10 miles north of first line. He added that the next line of defense is along the Chinese Eastern Railway. However, while I was in Tsitsihar city, November 1st, I was informed that the third line ran much closer to that city.

2. Other reliable Chinese reports indicate that General Ma's troops at first successfully resisted Chang's troops whose retreat was checked by Japanese reinforcements.

3. There is no doubt in my opinion that the Japanese military leaders are determined to drive Ma from and set up a government favorable to them at Tsitsihar. To reach that city, the Japanese-supported Chinese troops must cross the tracks of the Chinese Eastern Railway. Here they may meet with resistance on the part of the Chinese Eastern Railway guards, whose movements were reported in my telegram of November 6, 6 p. m., and whose commander, Ting Chao, is determined to resist encroachments on the Chinese Eastern Railway at all costs. This might cause complications with the Soviet Union.”

Repeated to Shanghai.

For the Minister :

ENGERT

793.94/2536 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 9, 1931—8 a. m.

[Received November 9—1:17 a. m.]

889. Following from Consul General at Mukden, November 8, 11 p. m.:

“Local Peace Maintenance Committee issued proclamation yesterday to the effect that it is functioning as the Provincial Government during this transitional period, that it does not concern itself with either past or future questions, and that it has no connection with

Nanking or Marshal Chang. All bureaus and administrative offices are directed to observe the laws and carry out instructions."

Repeated to Shanghai.

For the Minister:
ENGERT

793.94/2537 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 9, 1931—9 a.m.
[Received November 9—7:14 a.m.]

288. Upon Sugimura's return to Geneva I learn that Yoshizawa made the proposal outlined in my number 287, November 7, 11 a. m., his own and so telegraphed it to Tokyo. It is now being referred to as the "Yoshizawa proposal."

GILBERT

793.94/2541 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 9, 1931—10 a.m.
[Received November 9—4:15 a. m.⁷³]

892. At 1 a. m. I received a message from Marshal Chang Hsueh-liang informing me that serious fighting was in progress in Tientsin between Chinese and Japanese. As his office had no details I immediately tried to telephone to the Consulate General and sent radio to Commanding Officer, Fifteenth Infantry, but received no reply. I telephoned to both later this morning and obtained somewhat conflicting reports, except that all was quiet now. U. S. S. *Tulsa* at Tangku replied to radio it had no information.

Wellington Koo just called and stated that he and the Young Marshal felt the incidents of last night (concerning which I shall report fully when I have more details) had been instigated by the Japanese in the hope of overthrowing the local government and creating a confused situation warranting increase in Japanese forces and perhaps repetition of Mukden coup. He requests me to suggest to the Department on behalf of Young Marshal the advisability of having the principal consular officers in Tientsin instructed to make immediate impartial investigation of all circumstances and to make representations to the Japanese authorities to prevent recurrence of such events.

⁷³ Telegram in two sections.

In the meantime Chinese troops and police have been given strict orders not to fire on Japanese in uniform and in compliance with the Japanese demand all Chinese police have been withdrawn 300 meters from Japanese concession. Koo fears this arrangement cannot be prolonged indefinitely.

Repeated to Shanghai.

For the Minister:
ENGERT

793.94/2542 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 9, 1931—10 a. m.

[Received November 9—9:15 a. m.]

289. Department's 119, October 27, 7 p. m. With respect to communiqués issued by the Secretary General and by the Chinese and Japanese (either independently or through the Secretariat), I am following and will continue to follow unless otherwise advised the policy of transmitting this information to the Department under the following system:

1. By telegraph (a) full texts (or summaries of essential points when the document is largely a repetition of previous statements) of all communications which fit in any way into the network of the current negotiations, or which, in my opinion may be cited at some future time in the negotiations; (b) usually full texts, occasionally summaries, of all military information from neutral sources.

2. By mail all communications not falling under the foregoing. Examples this type of communiqué are recent long and highly contradictory statements on the part of the Chinese and Japanese respecting the Nonni Bridge fighting. I assume that in respect to this incident, for example, your information direct from Tokyo and Peiping is much more satisfactory.

I am making the foregoing clear as I am aware that the American press representatives here are at times telegraphing to their home papers many communiqués which I do not touch upon in my telegrams and I desire the Department to know under what conditions this occurs.⁷⁴

GILBERT

⁷⁴The Department, in its telegram No. 129, November 10, 3 p. m., replied "Approved."

793.94/2540 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

SHANGHAI, November 9, 1931—noon.

[Received November 9—2:14 a. m.]

May I communicate the substance of your November 7, 2 p. m.,⁷⁵ informally through the Consul General at Nanking to the Chinese Acting Minister for Foreign Affairs? The Chinese Foreign Office apparently has information that a communication of this sort has been made.

JOHNSON

793.94/2543 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 9, 1931—noon.

[Received November 9—9 a. m.]

290. Consulate's 279, November 5, noon. Drummond yesterday, Sunday, handed me a copy of the following note dated November 5, addressed by Briand to the Japanese representative respecting the seizure of the salt revenues. This is being made public.

"You have certainly noted the letter and memorandum forwarded by the Chinese delegate to the Secretary General of the League of Nations on the 3rd of this month and a further note by Dr. Sze dated November 4, these various documents having been immediately communicated to all the members [of] the Council.

The Chinese representative refers in particular to the seizure by the Japanese military authorities of part of the salt revenue of Newchwang which is said to be only the first of other operations of the same character.

Your Excellency will remember that in paragraph 5 of the Council resolution of September 30 the Japanese Government had already undertaken to 'adopt all necessary measures not to extend the incident or aggravate the situation'. At the meetings of the Council on October 23 and 24, moreover, Your Excellency spontaneously renewed on several occasions the formal assurance that the Japanese Government intended 'to bring back its troops within the railway zone as soon as it could regard the safety of its nationals and the protection of their property as effectively assured', Japan for her part being prepared to facilitate by all means in her power the 'pacification' which appeared to her to be indispensable for the fulfillment of this condition of security formulated by herself.

⁷⁵ Not printed; it gave the principal points of the memorandum delivered to the Japanese Foreign Office on November 5. For text of memorandum, see telegram No. 217, November 3, 1931, to the Chargé in Japan, *Foreign Relations, Japan, 1931-1941*, vol. I, p. 34.

It is obvious that acts of the kind reported such as the seizure of the salt revenue cannot be related to the safety of Japanese nationals and the protection of their property and that they would therefore be incompatible with the undertakings entered into before the Council and with the spontaneous assurances recorded by it.

I do not doubt that the Japanese Government conscious of the obligation resting upon it to take all necessary measures to prevent any aggravation of the situation will understand the need of furnishing the members of the Council with the necessary information regarding the incidents in question.

As President in office, and assuming the responsibility to my colleagues of following the execution of the undertakings recorded by the Council, it is my duty to obtain all information on this matter. I should therefore be glad if Your Excellency would be good enough to forward to me as rapidly as possible all useful information for the complete enlightenment of the members of the Council."

In commenting on this Drummond stated that there were speculations in the Secretariat to the effect that the Japanese had seized these revenues to assist in financing their operations in Manchuria, the Minister of Finance at Tokyo having put pressure on the military leaders by limiting their funds.

GILBERT

793.94/2577 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 9, 1931—1 p. m.

[Received 5:30 p. m.]

292. I had a long conversation with Drummond yesterday, Sunday, at noon regarding the situation presented by the Japanese reply to Briand's letter of October 29 (Consulate's 270, October 31, 9 a. m.). The text of the Japanese reply dated November 7 is as follows:

["1.] I have the honor to acknowledge the receipt of Your Excellency's note of October 29 in which you were so good as to make certain observations on declaration of Japanese Government of October 26 in connection with Manchurian incident. Having referred to Tokyo your communication under acknowledgement I am now charged to assure you that my Government have submitted it to their most serious consideration and that they highly appreciate your sympathetic concern in the present situation in the interest of international peace and good will and understanding.

[2.] I am further instructed to express entire concurrence of my Government in Your Excellency's remark that resolution adopted by Council of the League of Nations on September 30 remains in full force. Japanese Government are determined to carry it out in letter and in spirit and they reaffirm their earnest desire to proceed to withdrawal of Japanese troops to railway zone with minimum of delay.

3. But resolution of September 30 consecrates principle that effective security must at the same time be assured for lives and property

of Japanese subjects and in state of tension which at present unfortunately exists it is impossible to hope that withdrawal of Japanese forces would immediately give place to regime of settled peace and order under Chinese auspices. Japan and China would simply be exposed to speedy recurrence of untoward incidents. There can be no security for foreign residents where hostile agitation against them is allowed to proceed, where efficient protection to them in their peaceful pursuits is denied [by] local authorities or where their treaty rights are systematically ignored. Having regard to actual conditions in Manchuria the Japanese Government have regretfully been brought to conclusion that dangers involved in precipitate recall of Japanese troops could not be averted by measures of supervision such as are recommended in opposed resolution of October 24th referred to in Your Excellency's note under review.

4. It is pointed out in your note that first four points of five fundamental principles mentioned in Japanese declaration of October 26th are virtually embodied in proposition of October 24th.

Your Excellency, however, will no doubt perceive that terms of proposition are not sufficiently explicit or comprehensive to cover all implications of four points in question. As regards final point, viz., guarantee of respect for Japanese treaty rights in Manchuria, terms of letter addressed to you on October 24th by Chinese representative seem to give rise to doubt whether it is in contemplation of Chinese Government to call in question validity of some of treaties constituting basic embodiment of relations between Japan and China. It may be needless to state that Japanese Government could not for a moment entertain such contention. Nothing can be more destructive of established order of the whole world than to permit any power to challenge binding force of treaties concluded with all solemnity of international usages. Japanese Government trusts that they have made it clear that five fundamental principles mentioned in Japanese declaration of October 26 are no more than those that are commonly observed in intercourse of ordered communities with one another. Unless and until arrangement is reached between Japan and China on bases of those principles no measure of security for lives and property of Japanese subjects sufficient to enable withdrawal of Japanese forces to railway zone can possibly be assured. Japanese Government believe that course of procedure now indicated is in entire agreement with resolution of Council of September 30. It is far from their thoughts to insist on final adjustment of whole series of pending questions between Japan and China as condition precedent to withdrawal of troops. All that they urge upon China for the present is frank recognition by direct negotiations between the two countries of fundamental principles that should govern normal relations between any two nations. Such accord will be a long step toward replacing present tension by sense of stability between peoples of two countries whose interest is to be on best of terms."

The following are the essential points of Drummond's views respecting the foregoing and the situation now presented.

[Paraphrase.] (a) In spite of the Japanese protestations, their position as set forth in the foregoing note is not within the scope of the Council's September 30 resolution.

(b) Aside from the contentions repeatedly made by the Japanese that their activities in Manchuria constitute no acts of war, nevertheless they have violated the spirit and the terms of the Kellogg Pact, especially article II; the League Covenant, especially article 10, and above all the Nine-Power Treaty of 1922.

(c) Responding to Drummond's inquiry as to whether Briand contemplated replying to the Japanese note, Briand said that, things being as they were now, he would not reply. He did not see that anything could be done save to let the situation remain as at present until November 16.

(d) Drummond inquired of Briand if he would ask the Japanese which treaties were referred to in their note. Briand answered that he felt it would not be wise at present to do so. While discussing this point with me, Drummond remarked he was not at all certain that Briand was right not to address such an inquiry at this time to the Japanese, but he had left the decision to Briand.

(e) I was asked by Drummond whether I thought it might be useful, in view of the changes brought about in the situation by this development in Japan's position, for the United States to make public its memorandum of November 5 to the Japanese Foreign Office. Drummond said that Japanese public opinion possibly did not realize the situation's seriousness and that such action might awaken it. I told Drummond that my Government unquestionably was being kept well informed by its sources in Tokyo concerning this and other phases of the situation and that my Government of course was considering all aspects of the matter. I said I would, however, transmit his observations to you. [End paraphrase.]

GILBERT

793.94/2575 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Paraphrase]

GENEVA, November 9, 1931—2 p.m.

[Received 5:05 p.m.]

293. (1) In a conversation this morning with Drummond he told me that, the other Council members having acquiesced, the Council meeting scheduled for November 16 will take place in Paris.

(2) This meeting, as you are aware, is of the status of an adjourned session and is not a new Council session. Thus the American representation technically would still continue (unless altered) under the terms of the League's letter of invitation and the Department's acceptance thereof, amplified further by the statements at the Council meeting of October 16 by the American representative.

(3) Drummond has expressed to me and requested that I convey to you his most earnest hope of no change in the character of United States representation at the meeting in Paris. He desired me to add that he is joined in this by the British and French representatives, the only Council members who were aware that a change in American representation was at any time being contemplated. Any knowledge of this has been kept from other members of the Council.

Drummond bases his desire, which is expressed in the foregoing, upon certain points of policy, and he regards each of these as most important:

(a) One aspect of solidarity—in this instance, opposition to using armed force in any form—will “carry through” to the forthcoming conference on disarmament, bringing about its opening under auspices psychologically favorable and enhancing its likelihood of success.

(b) It would be extremely desirable to have an outward aspect of similar solidarity in respect of the negotiations between China and Japan. While not having any bearing upon the actual relations between the United States and the League of Nations in this matter, any “physical” alteration in the American representative’s position might be used by the Japanese press in order to stiffen public opinion in Japan to support the present Japanese position, giving the Japanese extremists, so to speak, a new lease on life, which might affect the negotiations materially. Moreover, the press of the world is beginning to discount as “news” any longer the relation of the United States to the League, including the American position on the League Council. Any change probably would arouse a species of speculation by the press, much of which perhaps would be harmful and unfortunate. This is possible particularly because of the American policy at present to conduct relations privately through American diplomatic channels with the Chinese and Japanese. As you are aware, Drummond is fully in accord with the American Government’s policy in this respect and feels, under the circumstances, that this special strategy is the best possible and is of incalculable value. However, since for this reason United States policy in relation to Japan remains in the background, it is most desirable to maintain and it would be exceedingly difficult to have anything replace the outward symbol of mutual confidence and of solidarity achieved by the American position at the Council table.

(c) Previously, when American withdrawal from the Council table was contemplated, Drummond recalls the almost insurmountable difficulty Briand faced at that time in formulating a statement which might explain such a change in a way which would be convincing or satisfactory or even believable.

(d) The Council members and the League states in general never conceived of the United States objective in its association with the Council as exceeding in importance its limitation to the invocation of the Kellogg Pact. This was considered to be simply a means to afford such cooperation. This association has been envisaged as the American Government’s desire to take the steps which, under the circumstances, seemed wisest toward attainment of an objective commonly held with other powers to endeavor to bring about a satisfactory

solution of the Manchurian question within the bounds of modern world sentiment and of machinery for a peaceful settlement of disputes and to lend to such efforts continuing moral support. The association of the United States with the Council for this purpose was a departure from customary League procedure which was not agreed to without some sacrifice by members of the League, since there was in the minds of Council members a question whether the League's integrity might not be threatened in some way by setting such a precedent. In this the Council members also felt responsible to other League states which were unrepresented on the Council. Extension of an invitation to the United States was influenced by the great powers on the Council, for these felt that they would be obliged to bear the burden in case of any trouble with Japan; but the chief reason for the Council members acquiescing in the invitation was due to their feeling that it would be responsive to the desire of the American Government. They would for this reason misunderstand a withdrawal by the United States, which undoubtedly would wound their sensibilities.

(e) The American representative's position as an "auditor", though one deeply interested, is understood clearly; and, viewing the situation from Geneva, Drummond does not see how, while this technical position is firmly maintained, anything could arise to prejudice the general position of the United States.

(4) I need scarcely say in respect of the above that in his conversation with me Drummond in no wise created an impression of trying to dictate or even to suggest what might be a desirable policy for the United States to follow. He merely was giving you in a frank manner, through me, his thought concerning this subject, as he has done respecting other matters relating to the United States.

GILBERT

793.94/2539 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 9, 1931—3 p. m.
[Received November 9—6:15 a. m.]

893. Legation's 892, November 9, 10 a. m. Following from Consul General at Tientsin:

"November 9, 9 a. m. Heavy machine-gun and rifle fire was heard in or near the Japanese Concession last night at 11 o'clock and lasted until 2 a. m. There was a lull in the firing until 7 this morning and kept up until 9. There is much confusion in and near the Japanese Concession and the exact cause of trouble is not yet known but rumors have been current for several days [that] the ex-Shih Yu-san soldiers in the concession, reenforced by Chinese students, have been organizing themselves into plain-clothes squads for a concerted attack on the local Chang Hsueh-liang Government. In the firing this morning the detonation of small field pieces was distinctly heard. Strict martial law is being maintained in Japanese Concession and in Chinese

area. Conditions are quiet in French and British Concessions but much uneasiness prevails as to possible repercussions. Mayor Chang⁷⁶ has requested members of consular body to meet him at 10:30 this morning to discuss developments."

Repeated to Shanghai and commander in chief.

For the Minister:
ENGERT

793.94/2549 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 9, 1931—3 p. m.
[Received November 9—11:45 a. m.]

294. Drummond handed me this morning a copy of identic telegram which he sent on November 6 to Tokyo and Nanking in the name of Briand as President of the Council concerning recent armed conflict between the Chinese and Japanese forces in Manchuria:

"The extension of incidents towards Northern Manchuria and the serious nature of information supplied regarding those incidents by the Chinese and Japanese Governments cannot but increase the anxiety of the Council and public opinion. As President of the Council I desire to remind you that the Chinese and Japanese representatives have given assurances that their Governments will take all necessary steps to avoid aggravating the situation. The Council placed these solemn undertakings on record in its resolution of September 30th. To fulfill those undertakings it now seems to me necessary for the two Governments to issue instructions without delay to the officers commanding their forces in order to remove all possibility of sanguinary engagements between Chinese and Japanese troops, as any further serious incidents may make it even more difficult for the Council to pursue its efforts for the maintenance of peace and the peaceful settlement of the dispute with which it is called upon to deal."

GILBERT

793.94/2545 : Telegram

The Consul General at Tientsin (Lockhart) to the Secretary of State

TIENTSIN, November 9, 1931—4 p. m.
[Received November 9—10:15 a. m.]

Following sent to the Legation:

"November 9, 3 p. m. My November 9, 9 a. m."⁷⁷ At meeting with Mayor and Provincial Chairman it has been brought out that most of the firing last night was between Chinese police and plain-clothes

⁷⁶ Chang Hsueh-ming, brother of Marshal Chang Hsueh-liang.

⁷⁷ See telegram No. 893, November 9, 3 p. m., from the Minister in China, p. 401.

men just outside of the Japanese Concession in which area the latter had organized their [apparent omission]. As soon as they reached Chinese territory firing between them and Chinese police began. Some of the plain-clothes men were captured and some had in their possession the sum of \$40 in currency. Their objective was the Bureau of Public Safety, the headquarters of the Provincial Government and the electric-light plant in the ex-Belgian Concession and possibly the telephone office. Evidence is very conflicting as to whether there was any considerable firing inside the Japanese Concession last night but there is convincing proof that the Japanese troops used an armored car and machine guns at about 7 o'clock this morning. At 4 a. m. the Japanese authorities demanded of General Wang that he remove by 6 a. m. the Chinese police to a distance of 300 meters from the boundaries of the concession and General Wang agreed that he would do this but contended that the time was too short and requested 30 minutes' grace beyond 6 a. m. Apparently by 7 o'clock or thereabouts the police had not been removed to the 300-meter limit whereupon firing took place between the Japanese and the Chinese police. It is not definitely established as to who fired first. Apparently the Japanese have not proceeded beyond the boundaries of their concession and it is evident also that no Chinese troops have been in action. Up to this point on the Chinese side only police have been employed. Casualties are not yet known but Japanese claim one petty officer and one soldier killed and Chinese claim a number have been wounded. The Chinese state that there were 1,100 plain-clothes men and that on some of those captured were found rifles of Japanese manufacture of 'the 38th year'. There is considerable doubt that any students were involved in the trouble.

The Chinese are complaining bitterly of the enforced establishment of a zone of 300 meters outside of the Japanese Concession on the Chinese side because this creates an area which is without police protection and which can be used as a refuge by the plain-clothes men.

The tension is by no means relaxed and further important developments may occur at any time.

Repeated to Department and Nanking."

LOCKHART

793.94/2550 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 9, 1931—4 p. m.

[Received November 9—12:50 p. m.]

295. Drummond handed me this morning the following copy of a telegram which he received from the Japanese Government on November 8 concerning the recent Nonni Bridge incident.

"According to report received by Ministry of War Japanese troops after occupying Tashing at midday on 6th instant, have ceased to advance northward. Reenforcements which had not yet rejoined them have also stopped their northward march.

Advance of the Japanese forces towards the Nonni River is due solely to necessity of protecting work of repairing bridge which will last about a fortnight. The Government is firmly resolved, as it has already stated, to recall these troops as soon as the work is terminated.⁷⁹

GILBERT

793.94/2533 : Telegram

The Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, November 9, 1931—4 p. m.

411. Reference your 892, November 9, 10 a. m.; 893, November 9, 3 p. m.; 896, November 9, 4 p. m.,⁷⁸ and Tientsin's November 9, 3 p. m., to the Legation.⁷⁹

(1) Please request the Consul General at Tientsin to collaborate with Colonel Taylor⁸⁰ and to report telegraphically their conclusions regarding the cause of the fighting; who began it; if American lives and property are in danger; and if, in their opinion, any necessity exists for establishing the 300-metre zone outside the Japanese Concession.

(2) Inform the Consul General that he is authorized to participate if the consular body at Tientsin believes it advisable to make an impartial, united investigation, but he is not to take the initiative in organizing an investigation of this sort.

(3) Instruct him to report with promptness directly to the Department, as well as to the Legation, concerning all matters connected with the foregoing.

STIMSON

793.94/2584a : Telegram

The Secretary of State to the Chargé in France (Howell)

[Paraphrase]

WASHINGTON, November 9, 1931—4 p. m.

530. The Department learns through roundabout channels that Briand does not have a clear understanding in regard to the memorandum communicated on November 5 by the Ambassador in Japan on behalf of this Government to the Tokyo Foreign Office.

⁷⁸ Not printed.

⁷⁹ See telegram of November 9, 4 p. m., from the Consul General at Tientsin to the Department, p. 402.

⁸⁰ Commanding U. S. Fifteenth Infantry Regiment, Tientsin.

For your use at the French Foreign Office in an informal conversation, with Briand personally if possible:

(1) This communication to Japan I have regarded as essentially a matter between the two Governments, and therefore I have not made available its text. I read it and made extended comment thereon to the French Ambassador,⁸¹ who was to have informed Briand. I do not have any reason to believe that he did not report adequately, but I do not desire any lack of clear understanding, whatever the cause, on the part of Briand concerning my position and action. As to the memorandum under reference, my particular objective was to make it clear to the Government of Japan that the American Government's objective and that of the League Council are identical in seeking the prevention of war and the bringing about of a solution by peaceful means. I indicated in the memorandum my endorsement of the League's effort and action as expressed in the September 30 and October 24 resolutions, but, while invoking the spirit of the October 24 resolution, I refrained deliberately from mentioning its time limit and avoided thus expressing any view, whether favorable or unfavorable, regarding this particular feature of the second resolution. I emphasized the view that the solution of long-standing issues should not be made a condition precedent to withdrawing Japanese armed forces and that the Japanese Government should not avail itself of the presence of these armed forces as an instrumentality to bring pressure to bear in the negotiations upon China. This I regard as fundamental, and I feel it to be imperative that it be understood that the United States Government stands with the League Council for the same fundamental principles.

It seems to me I have made it very clear to the Government of Japan that my views generally correspond with those of the Council and that the effort which is being made by the Council, and especially by Briand, to prevent war and to produce a peaceful settlement is endorsed by me.

(2) I asked Ambassador Claudel to bring to Briand's attention my thought, in line with what I understand already to have been in the minds, not only of Briand, but also of both the Chinese and Japanese Governments, that the impasse might be resolved by the two Governments concerned resorting to the method of negotiating directly in the presence of neutral observers, which was done in the case of the Shantung question. I do not desire this thought to be put forth as a suggestion or proposal emanating from this Government; but I believe it would be useful if Briand should attempt to elicit the formulation by the Japanese Government of a proposal along this line.

STIMSON

⁸¹ See memorandum by the Secretary of State of a conversation with the French Ambassador, November 4, p. 368.

793.94/2575 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 9, 1931—10 p. m.

[Received November 10—7:08 a. m.]

297. Drummond has handed me the following text of a communication from the Japanese delegation dated November 6th which is being circulated to the Council:

"During the last few days about half Japanese Army stationed at Chuliuho and more than half that stationed in the locality of Kirin have been withdrawn, thus reducing [number?] of Japanese troops in these two localities (including railway guards Kirin-Changchun) to fewer than thousand men. I should be very grateful if you would bring the foregoing to the knowledge of the members of the Council. Sawada."

GILBERT

793.94/2589 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 9, 1931—11 p. m.

[Received November 10—12:15 p. m.]

298. Consulate's 290, November 9, noon. In a letter dated November 5 Yoshizawa denies Chinese allegations concerning seizure of salt revenues at Newchwang and encloses the following text of a telegram from Tokyo.

"As regards the salt revenue of Newchwang the total annual revenue is about \$30,000,000. There remains annually a net balance of over \$20,000,000, after deducting the expenditure and sums assigned for the service of the foreign loans secured by the tax. This balance had previously been placed at the disposal of General Chang Hsueh-liang who used it for his military expenditure, et cetera.

On October 22nd last the Chinese Committee for the Maintenance of Order at Mukden (see communication from the Japanese delegation dated October 14, document C.715.M.320.1931.VII, page 3) asked the Newchwang salt revenue office to hand over the balance of the tax receipts. The latter office agreed to send the said balance which is at present in its possession together with the net balance of the tax to be collected. Thus the allegation that the Japanese military authorities have forcibly seized the revenue from the salt tax is entirely unfounded. The Japanese military authorities have entirely refrained from interfering in purely Chinese affairs, assuming that there was no reason to object to the Mukden-Chinese Committee for the Maintenance of Order, which discharges these duties in the place of General Chang Hsueh-liang receiving the balance in question from the Newchwang salt revenue office which is also a Chinese organ.

It should be noted that although it handed over the balance in question to the above-mentioned Committee the Newchwang salt

revenue office continued and continues to send regularly to the Nan-king Government the necessary amount for the service of foreign loans. Furthermore as is well known the salt revenue administration in contrast to that of the maritime customs has become an exclusively Chinese service since the National Government at the end of 1928 reformed this administration without paying any heed to the protests of the interested powers."

GILBERT

793.94/25921

*Memorandum of Trans-Atlantic Telephone Conversation*⁸²

SECRETARY: This is Secretary Stimson. Is this General Dawes?

DAWES: Yes, Mr. Secretary.

SECRETARY: I have an important message for you. The President and I have an important job for you to do,—a really he-man's job—and that is to go over to Paris next week or the end of this week and to be there during the special conference of the Council of the League of Nations on the subject of Manchuria. The situation, as you must know from the press, is extremely critical, and yet from the messages I get I am hopeful—very hopeful—that it will be possible with some of the astute good sense I know you to have, to have a settlement finally worked out that would vindicate the peace treaties and save peace in Manchuria. I am sending you by cable today a résumé of the situation to help you.⁸³ You see at present the Paris Embassy is stripped. Edge⁸⁴ is over here. Norman Armour⁸⁵ is on leave, and Marriner⁸⁶ is here. So I am sending Howland Shaw⁸⁷ from Turkey. He is one of the best men in Europe.

DAWES: I do not get that name.

SECRETARY: Howland Shaw. He is to be Attaché and he is stopping (this is confidential) at Geneva on the way up to confer with Gilbert. I can if necessary have Gilbert go up too but that might make a little excitement in the press here. The point is that we want to be represented by you because we require the necessary personality to give effect to our views in conferences which will be held with people like Briand. We do not want anybody to sit on the Council. We do not want you or anybody else to actually sit in the meetings of the Council but we want them to come to you.

DAWES: Yes.

⁸² Between Mr. Stimson in Washington and Ambassador Dawes in London, November 10, 1931, 9:30 a. m.

⁸³ See telegram No. 326, November 10, 1931, 8 p. m., to the Ambassador in Great Britain, *Foreign Relations*, Japan, 1931-1941, vol. I, p. 41.

⁸⁴ Walter E. Edge, Ambassador in France.

⁸⁵ Counselor of Embassy in France.

⁸⁶ J. Theodore Marriner, Counselor of Embassy in France.

⁸⁷ Counselor of Embassy in Turkey.

SECRETARY: And confer with you and you to confer with them on matters which this country is interested in. Our position in general has been to endorse the position of the League so far as possible, that is to endorse its general objective, which is the preservation of peace in Manchuria. We have actually cooperated in the discussions only when they concerned the Kellogg-Briand Pact, but we have conferred independently through the diplomatic channels on the general situation. The Kellogg Pact business is practically over so far as making representations under that is concerned but the general work of trying to get those two countries together in actual negotiations is the hard part. We have been giving a great deal of attention to that. The difficulty has been that the League we think has gone off a little bit too rapidly.

DAWES: The November 16th date, for instance.

SECRETARY: We have never agreed with that and we think that was a mistake so far as we can see from here, but we have never said so and we have simply reserved our independence of action and judgment in respect to that and in respect to all matters. The vital point, General, is this. Both parties, both China and Japan, are anxious to negotiate but China will not negotiate so long as Japan is occupying the new territory. And Japan will not evacuate until China negotiates about some long standing disputes they have had from the past. Do you see?

DAWES: Yes.

SECRETARY: On that last point we think Japan is wrong because it is using the pressure of military force to compel the settlement of certain political and national questions which long antedate this trouble. We have told Japan and we think she is beginning to hedge a little. We have received an answer which on its face would meet our wishes, but I think they will probably try to renew their old demands in spite of that. The thing to do is to work out on the one hand—I should expect you to keep your hand on the shoulder or coat collar of Briand and not let him go too fast, and on the other hand, it would be fine if your acquaintance with Matsudaira ⁸⁸—who I hope will go over.

DAWES: You don't know whether he is going over or not?

SECRETARY: I do not know, but it would be a great thing if he would. I do not like to suggest it because then it might keep him away, but if there is any way of putting it into his head it would be a very good plan.

DAWES: Do you suppose I could talk personally with Matsudaira about going?

SECRETARY: In view of your relations with him I think you could.

DAWES: I think I could.

⁸⁸ Japanese Ambassador in Great Britain. ..

SECRETARY: Yes, because the thing is a tragedy, General. I have been going over the negotiations carefully since Sunday and they indicate that the parties are close enough together to get together, but they have been kept apart by mistakes on both sides.

DAWES: Is it a fact that if the Japanese should withdraw their troops from some points outside of the Railway Zone that the Japanese nationals there would be in danger of assault?

SECRETARY: To the best of my information, in some of those places that would be true. As to some places, the original action of the Japanese has resulted in overthrowing the only law and order they have.

DAWES: Would it be a constructive step or a step in advance if Japan could be induced to indicate what her intentions were as to the controversy to withdraw her troops from those places where they can do so without endangering the lives of Japanese nationals, even if they did stay in some other places.

SECRETARY: That would be a great constructive step. The underlying trouble is that the Japanese Government—that is with our old friends Wakatsuki and Shidehara do not entirely control the situation.

DAWES: That is what Matsudaira tells me.

SECRETARY: The army has gotten out of hand and has several times got away from them.

DAWES: It is the domestic situation in their own country which makes it difficult.

SECRETARY: I have been really afraid that almost any day the army would succeed in putting the Cabinet out of office and so you have to proceed very delicately. But I do feel that Shidehara is very anxious to hold this down so far as he can and is very anxious to make a settlement, and our policy has been to try to reinforce his hand without inflaming the national sentiment. He is in a very ticklish position. In other words, the whole situation is one which requires the utmost patience, and yet it requires also absolute firmness on the ultimate point which is that these negotiations so far as they go into long standing matters—old matters—must be free from the pressure of military occupation. Here is a good slogan for you. We have not used it yet but in talking with the President yesterday he suggested it and I think it is a very good one. The negotiations which we believe in and want to have done must be carried on in the spirit of the Kellogg Pact and not in the spirit of military occupation. If you read the terms again of the Kellogg Pact, you will remember that the different countries agreed they would settle all their disputes by pacific means. Let me say one thing more. The situation in Manchuria in some ways resembles a situation that we have had to confront on the borders of Mexico and in Central America. Japan has

undoubtedly suffered great aggravation in the past, but in making this attack in September she went far beyond, to the best of our information, any proper intervention in behalf of lives and property. Of course she does not admit that, but reports which I have had from independent investigations show that and I will send them to you as quickly as possible.

DAWES: I would like to ask this. It occurs to me that of course any settlement that Japan is willing to make must be one so worded as to cause the least domestic opposition as possible.

SECRETARY: That is her side of it, and on our side it must vindicate the peace treaties.

DAWES: Isn't it just possible that some formula could be devised by which Japan, while really making proper concessions, could create the impression in Japan in some way that concessions have been made to her. I do not know whether anything of that sort could be done but the way Matsudaira talked, I think that they would be glad to do anything that they could which would not overthrow them at home. It might be possible that in some way you could get some sort of a settlement made which would indicate that at home there were some concessions to their principle. For instance that they would be allowed to keep their troops where nationals were in danger.

SECRETARY: So far as we are concerned we would not object to that. To the best of our belief, it would require time to effect an evacuation and they must be given that time. It is very largely their fault that this is so because they have disrupted the original governments there which were maintaining the peace. Now we are confronted with the fact, and we do not want to be the cause of producing anarchy in Manchuria. We do not want that. Let me give you a suggestion that has already been conveyed to Briand. It is based on a historic example. At the time when Japan made the twenty-one demands⁸⁹—you remember in 1915—which included the occupation of Shantung which she had taken from the Germans, this same situation arose—in fact some of the existing disputes which they want to settle now arose out of that same transaction. But when the Washington Conference in 1922 came up, Japan and China had been wrangling over the occupation of Shantung for several years without being able to get together and settle it or to persuade Japan to withdraw her troops. Then during the Conference at Washington, it was suggested that Mr. Hughes and Mr. Balfour sit as impartial observers in the negotiations after some demurring on the part of Japan, that was done and the trouble was settled in very quick order.

DAWES: Who did you say besides Balfour?

⁸⁹ For texts of the twenty-one demands, see *Foreign Relations*, 1915, pp. 171-177.

SECRETARY: Judge Hughes. Secretary Hughes. Charles E. Hughes.

DAWES: A Japanese?

SECRETARY: No. Hughes, our present Chief Justice of the United States.

DAWES: Oh, yes.

SECRETARY: He was the President of the Conference here—the Washington Conference—which was going on at that time. The Japanese and Chinese were finally persuaded to get into direct negotiations at the same time as that Conference was going on and Mr. Hughes and Mr. Balfour were nominally the neutral observers who sat with the Japanese and with the Chinese in the negotiations and the presence of these outside observers reassured China that they would not be overawed by Japan and at the same time they were able to straighten out several difficulties. That is a very striking case in a similar situation to the present one and it has occurred to us here in the Department that we might possibly be able to get them together in that way. The one thing we must avoid is trying to suggest ourselves as a government any solution of these longstanding problems in Manchuria.

DAWES: That would be very dangerous.

SECRETARY: Very dangerous indeed—they can only be settled by the parties concerned.

DAWES: What is that?

SECRETARY: That can only be settled by the parties concerned.

DAWES: The more we are in the background so far as Japan is concerned the better it would be.

SECRETARY: Our interest in the situation is to preserve peace under the terms of treaties to which we are parties. Our only interest in Manchuria is to prevent war.

DAWES: That is right.

SECRETARY: We do not care what solution is reached between China and Japan so long as it is done by pacific means.

DAWES: That is very good summing up. Mr. Secretary, when I go there are you going to make an announcement of that so that it won't be necessary for me to say anything?

SECRETARY: We will announce it from here. In the meantime I should like to have it kept confidential. I think it might be a good thing if you went over a couple of days earlier.

DAWES: So far as any announcement is concerned, you will do that there.

SECRETARY: I will do that here and I will give the text of our position.

DAWES: You will give the text of our position.

SECRETARY: Yes, exactly. I will explain that. I was thinking that you might go over a day earlier to see Briand and he would give you a talk on that subject.

DAWES: When do you want me to go?

SECRETARY: I want you to go in time, if possible, to have a conference with Briand before the meeting.

DAWES: When is the meeting?

SECRETARY: The meeting is set for Monday, the 16th, I think. But I do not know the hour.

DAWES: All I am to do is to wait until I get a telegram from you?

SECRETARY: You will get a lot of information. I do not want to announce it for several days.

DAWES: I had better not say anything then to Matsudaira in the meantime.

SECRETARY: I think it might be a little dangerous until it is finally announced.

DAWES: All right, Mr. Secretary.

SECRETARY: I feel greatly relieved and I know the President will be greatly relieved to know that you will be willing to go.

DAWES: I appreciate your confidence.

SECRETARY: What we want is your personality and good horse sense.

DAWES: I will keep you advised so that you can advise me along the way.

SECRETARY: All right. Yes, we will be glad to help you all we can, but we recognize that a great deal will depend on your own good sense and judgment right on the ground. I shall try to give you all our background as far as possible beforehand.

DAWES: Mr. Secretary, I will advise you before any decision, so you will know exactly what would be in my mind to do.

SECRETARY: When the original step was taken at the last meeting in Geneva to let Gilbert confer with the members of the Council, the League complicated the matter by staging up a ceremony and a lot of formality that scared a lot of people over here which might not have been scared at all.

DAWES: I feel I can handle that part of it.

SECRETARY: Yes.

DAWES: I will lay low. I feel that any part we take should be very quiet.

SECRETARY: Extremely quiet.

DAWES: The less publicity about the thing the better and I will know from what you say about what to take my cue from.

SECRETARY: All right.

DAWES: You describe there the innocuous—

SECRETARY: No it is the plain common sense of the situation. It is not innocuous. You are being sent there because you are the most important man we can send.

DAWES: I mean to say that it would not be best to have too much publicity attached to it.

SECRETARY: Here is the situation. To us this is not so much a League matter as it is a conference of the nations of the world over a situation which affects everybody irrespective of the League.

DAWES: It is a matter of treaty rights.

SECRETARY: It affects the United States directly by reason of the fact that the United States is a member of the Kellogg-Briand Pact and it also is a signatory of the Nine Power Pact.

DAWES: Exactly so.

SECRETARY: In which we guaranteed the integrity of China, of which Manchuria is a part, and consequently it would be a good plan for you to read those two treaties and you will have them fresh in your mind and what our stand is. The situation which I want to get to this country is that here are the nations of the World concerned with this dangerous situation in Manchuria all met together in Paris and you are representing this country. Irrespective of any League matter, it would be highly foolish if we were not represented there and represented by the best men we could get.

DAWES: Thank you, I will do the best I can. I can go there one day earlier.

SECRETARY: That I will leave to you. I should try to find out what time Briand could see you beforehand and I think it would be a good plan to talk with him.

DAWES: I will go a day ahead—the Council meeting is on the 16th.

SECRETARY: Shaw will be there on the 14th. Shaw is stopping at Geneva on the way—he will be there on the 14th—Saturday. He will have all of that information and if you could get over there then you could spend two days getting the background and in seeing Briand.

DAWES: When will I get the telegram from you?

SECRETARY: I will send a message just as soon as we get the thing straightened out here and I have seen the President. I have to consult with him about the announcement.

DAWES: Sometime before Saturday?

SECRETARY: Yes, it will be before Saturday—as early as we can.

DAWES: That is Saturday of this week?

SECRETARY: Yes, I have a memorandum here. I think you will find that Atherton⁹⁰ knows a good deal of the background of this situation.

DAWES: Who?

⁹⁰ Ray Atherton, Counselor of Embassy in Great Britain.

SECRETARY: Ray Atherton, your Counselor.

DAWES: Atherton is in Paris now, I think. I will talk with him about it.

SECRETARY: You have in your Embassy a man by the name of Dooman.² I am told he knows about it.

DAWES: All right. Much obliged.

SECRETARY: Good luck to you. Goodbye.

793.94/2590: Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 10, 1931—noon.

[Received 1:35 p. m.]

299. The Chinese representative addressed a letter to the Secretary General dated November 9 in which he discusses the seizure of the salt revenues and quotes a report on this subject by Dr. Frederick A. Cleveland, Associate Chief Inspector of Salt Revenues. The text of Dr. Cleveland's report is as follows:

"We have received from our representatives at Changchun a telegram dated November 6:

["]Today all the funds of the Bank of China and of the Bank of Communications, Changchun, amounting to \$2,600,000, were forcibly removed to the Bank of the Three Eastern Provinces, Changchun, by a transportation officer authorized by the Japanese military authorities. We protested in vain. The transportation officer formally notified us today that he cannot recognize the salt inspectorate.["]

Therefore not only is Japanese denial of not having seized the salt revenue of Newchwang incorrect but the Japanese military authorities continue to seize the salt revenues elsewhere through agents created, directed and completely controlled by the Japanese military authorities themselves."

GILBERT

793.94/2611d: Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, November 10, 1931—1 p. m.

322. You may take Eugene H. Dooman to Paris with you if you think it advisable. G. Howland Shaw will arrive there November 14 or 15 with full records from Geneva on Manchuria. He is being

² Eugene H. Dooman, First Secretary of Embassy in Great Britain.

directed to call you by telephone from Berne. Of course, he is going to Paris normally on temporary assignment as Chargé and Counselor in the absence of Norman Armour. During your stay in Paris, it has been arranged to have Shaw entirely free to aid you with this matter, and he has been directed with this in mind to spend two days with Gilbert in Berne en route to Paris. The press will not be informed of this last. It has been deemed inadvisable at this time to send Gilbert to Paris lest his presence there when the Council meets raise the question of whether Gilbert would or would not continue sitting with the Council. Should you deem it advisable, however, after consulting with Shaw, to have Gilbert in Paris for the purpose solely of keeping you informed, I do not see any objection to his proceeding there without attendant publicity if he does not reach Paris until the day following the first meeting of the Council. Thus the latter would have met without Gilbert's attending the opening session, and his presence without official status in Paris should raise no question.

Repeat to the Consul at Geneva.

STIMSON

793.94/2592 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 10, 1931—2 p. m.

[Received 2:45 p. m.^{91a}]

903. Following from American Consul General at Harbin received today:

"November 7, 3 p. m.

1. Secretary Chao has just informed me that General Ma at Tsitsihar telephoned local Foreign Affairs Commissioner this morning at about 11 that his troops had been driven back by the Japanese soldiers to Sanchienfang last evening, that the left and right wings of his force had fallen back to Angangki Station last night to dig trenches there, that he could hold Sanchienfang for one day, that the defenses at Angangki were weak and that the Japanese were preparing for an attack but had not yet attacked this morning, that if Sanchienfang is lost, the way to Tsitsihar city will be opened to the Japanese and that conditions in the city were at present not much disturbed.

2. Ohashi, the local Japanese Consul General, informed me an hour ago that he had received news to the effect that arrival of Japanese reinforcements from Changchun via Taonanfu had enabled the Japanese forces, which had suffered severely in attempting to storm the first defense line of the Heilungkiang troops, that after a fierce attack under an artillery barrage, getting on an advantageous position in the first line, whereupon their Chinese opponents were forced to retreat, that the defeated troops were retreating toward Tsitsihar in disorder

^{91a} Telegram in four sections.

and that he had no information in regard to how far the Japanese troops had advanced.

3. From a fairly reliable Russian source at Tsitsihar Station on the Chinese Eastern Railway I received this morning a report on the situation late last night to the effect that wounded Chinese soldiers were arriving at that place in an uninterrupted stream, that Japanese troops were 13 kilometres south of the Chinese Eastern Railway and were expected to reach Tsitsihar Station and city on November 7th, that on the 6th three Japanese airplanes flew over Tsitsihar Station and threw bombs at Chinese troops and a Tao-Ang Railway train just outside of this station and that a tremendous panic prevails amongst Chinese and Russian refugees at Tsitsihar Station.

4. Secretary Chao, who is Ma's representative here, has failed in negotiating a peaceful settlement of what he terms a misunderstanding between the Japanese and Heilungkiang troops, as China and Japan are not at war, with the local Japanese consular and military representatives, who insist that the Heilungkiang troops hoist the white flag and that Ma resign as Acting Chairman of the Heilungkiang Government. Chao is attempting to have the local consuls come here to arrange a cessation of hostilities.

5. The local Japanese-controlled press and military representatives openly admit that large forces of Japanese troops, perhaps several thousand, consisting of infantry and cavalry, supported by artillery, and airplanes, have been brought to the Nonni River front. It is reliably reported that Major General Tamon, who forced Hsi Chia to form an independent government and who commanded the troops at Changchun, has arrived at the south side of the bridges and is directing the operations of the Japanese forces.

6. In my opinion, this combined Japanese-Chang Hai-peng attack against the Heilungkiang forces and ensuing 3 days' battle is by far the most serious military engagement since September 18th. This is actual warfare. From what I learned at Tsitsihar on November 7 and 8, I can only conclude that the Chinese engineers connected with the Tao-Ang Railway were well able to repair the bridges, although there was an indication that they were against finishing the repairs until after November 16th, the date of the meeting of the Council of the League of Nations. The Japanese military objective was Tsitsihar and that repairing of the bridge and the defense of the South Manchuria Railway workers thereon were but pretexts used to start a clash with the Heilungkiang troops. I believe the Japanese military leaders were surprised at the Chinese resistance which was unexpected. I have reason to believe that the Chinese military leaders in North Manchuria had come to the conclusion that by not fighting the Japanese they lose their influence, so they decided to resist the Japanese in order to bring about interference of the outside powers or possibly of Soviet Russia."

Minister informed.

For the Minister :
ENGERT

793.94/2583 : Telegram

The Consul General at Tientsin (Lockhart) to the Secretary of State

TIENTSIN, November 10, 1931—3 p. m.

[Received November 10—7:20 a. m.]

Following sent to the Legation today:

"November 10, 11 a. m. While there was intermittent rifle fire in the Chinese city practically throughout yesterday, last night passed quietly in that area and in the concession due to the strictest measures of control.

Chinese staff of this Consulate General were not able to reach Consulate General yesterday or today because of strict martial law in Chinese city and Japanese Concession. Chinese staff of many foreign firms similarly affected.

The electric light plant referred to in my November 9, 3 p. m., is in the Chinese city and not in ex-Belgian Concession.

Practically all business is suspended in the Japanese Concession and in a wide area in the Chinese city.

Chinese claim that in the firing yesterday morning at 7 o'clock the Japanese directed trench mortar shells towards the Bureau of Public Safety and that two of the shells fell in the river directly in front of the Bureau.

The number of Chinese casualties is still not known but it is generally believed that there were quite a few.

American, British, French and Italian commandants, all of whom are maintaining complete neutrality in the affair, as are all members of the consular body, conferred with Japanese Commander yesterday afternoon for the purpose of obtaining information. Japanese Commander gave to the press a statement in the afternoon stating trouble was due to internal Chinese politics in 'native city quite unexpectedly' and that orders were issued by him to protect the Japanese Concession. Since the statement is available in the press despatch, text will not be telegraphed. The Chinese claim that about 80 plain-clothes men were captured. An American missionary report[s] that two in attempting to evade the Chinese police threw their rifles into the American Methodist Episcopal Mission compound in Chinese city. Rifles bear the mark of the northeast army and one of them appeared to be entirely new. The rifles were turned over to the Chinese authorities.

Quite a number of stray bullets fell in the French and British Concession[s] on Sunday night and yesterday without damage.

Repeated to the Department and Nanking."

LOCKHART

793.94/2640

Memorandum by the Secretary of State

[WASHINGTON,] November 10, 1931—3 p. m.

The Japanese Ambassador called and began by telling me that the Japanese Government was substituting 4,000 new troops for 4,000

troops now in Manchuria. He said that originally, at the beginning of the trouble in September, there were 10,400 troops there; that subsequently 4,000 were added to these and now 4,000 of the total are being replaced by 4,000 new troops. (2) He told me that the Japanese memorandum which he handed me yesterday⁹² has been withheld from publication by the Japanese Government but has been confidentially communicated to Sir Eric Drummond. (3) He told me that at present the bridgehead on the Nonni River remains in the possession of the Japanese who, however, will not proceed northward; that the situation has improved; that a part of the Japanese contingent at the bridge have returned to South Manchuria, but a portion remains; and that the Japanese do not take seriously the declaration of war by General Ma, who has only a very small force of men with him at Tsitsihar, and whose declaration of war has already been disavowed by Nanking. (4) In Tientsin he said he is satisfied with the reports which have been made by our Consul General Lockhart as reported in the press, namely, that the Japanese did not cross the boundary of their own reservation.

He asked me about the report that the League had requested us to send an observer to Paris. I said that that was not so, but I then told him I was about to send General Dawes to Paris so that he would be there to confer with the representatives of the other nations including the Japanese and Chinese if that should become desirable. I explained to him the reasons for sending General Dawes, winding up by saying that it was not a gesture hostile to Japan but quite the reverse, and he said he understood perfectly.

The Ambassador then brought up the question of the "fundamental principles" mentioned in his memorandum and reverted to the Treaty of 1915, in regard to the lease of the South Manchurian Railroad, telling me how important it was to Japan because otherwise the twenty-five year lease to Russia would have expired in 1923. He said the terms of the Russian lease were known to be purely fictitious in order to save China's face and that the Russians had gone ahead and made improvements contemplating a long stay. I told the Ambassador I had no objection to Japan claiming title to her rights in Manchuria either by negotiation, or arbitration, or conciliation, or in any pacific way; that our only objection was to her trying to base or improve those rights by the present warlike move in Manchuria. He argued at length on the Washington matter to prove that the United States had given up its reserved objections to the 1915 Treaty, but I produced Willoughby's book and read him Mr. Hughes' statements in which those objections were reserved in

⁹² *Foreign Relations, Japan, 1931-1941*, vol. I, p. 39.

1922.⁹³ He then said that I was evidently a good lawyer. In the course of the discussion about Shantung, I reminded him that China and Japan had not been able to make any progress there until they had laid aside all juridical claims and had based their discussions on factual claims, and I asked him why they did not do so now. He said that was very interesting.

H[ENRY] L. S[TIMSON]

793.94/2593: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 10, 1931—3 p. m.

[Received 6:10 p. m.⁹⁴]

904. Following two telegrams from American Consul, Harbin:

"November 9, 10 a. m.

1. Yesterday passed quietly near Tsitsihar and the Japanese consider that their position along the former Chinese front defense line through Tashing and Ma's troops still held and second defense line through Sanchienfang.

2. On November 7th Secretary Chao caused to be sent to each of the consuls here except the Japanese a request which he inspired, in regard to the issuance of which he probably only consulted General Ma by telephone and which purported to come from the Chinese commercial, agricultural and labor societies of Tsitsihar requesting the consuls to attempt to stop hostilities. The British Consul has informed me that he would refer this matter to his Legation. I look upon it as a measure adopted by Chao, who is very willing, to help General Ma keep his job. As far as I can perceive little can be done by the consular body of which the Japanese Consul General is the Senior Consul, but I request the instructions of the Legation in the premises.

3. Late last evening Secretary Chao informed me that at 1 p. m. yesterday General Ma told him by telephone that Colonel Hayashi (in Chinese Liu) at Tsitsihar had sent to Ma a copy of a telegram dated November 8th received from Commander Honjo and which read as follows:

"This is to notify Chairman Ma that the only way to keep the Japanese troops from entering Tsitsihar is for him to declare his sincerity immediately. A reply to this telegram is urgently required and must be sent not later than 12 midnight of the 8th."

According to direction to Chao, Ma sent diplomatist Yu to Colonel Hayashi to ask what was meant by the word sincerity in that telegram. Yu was informed by Hayashi 'that to prevent hostilities and to maintain local peace and order required that Chairman Ma resign his position and peacefully hand over charge of the Tsitsihar Government to Chang Hai-peng and that there was no other way to attain peace.'

⁹³ Westel W. Willoughby, *China at the Conference* (Baltimore, 1922), pp. 256-260.

⁹⁴ Telegram in three sections.

4. November 7th was celebrated on a grand scale by the local Soviet institutions, officials and citizens. Speeches against imperialism were made. At the highly decorated Soviet Consulate General and Chinese Eastern Railway Club were displayed mottos such as 'We do not wish one inch of foreign soil nor shall we part with one inch of our soil.' 'The League of Nations provokes war.'

5. Secretary Chao has just informed me that General Ma replied last night to Honjo's alleged ultimatum of the 8th by stating 'that Chang Hai-peng would not come to Tsitsihar because he had not been ordered by the Chinese Central Government to come'.

6. Captain Tenney arrived at Harbin yesterday morning."

Message No. 2.

"November 9, 1 p. m.

1. Referring to my telegram of November 4, 10 a. m., paragraph No. 3, Hallett Abend informed me that Ohashi, the local Japanese Consul General, stated to him this morning that he, Ohashi, had knowledge that such an official had been sent to General Ma by the Japanese military.

2. The local Commissioner of Foreign Affairs has informed me that more Japanese soldiers have crossed the Nonni and that further expedition was expected today. I have not yet been able to confirm this statement."

Minister informed.

For the Minister:

ENGERT

793.94/2547 : Telegram

The Secretary of State to the Chargé in France (Howell)

WASHINGTON, November 10, 1931—4 p. m.

534. With reference to the memorandum from Monsieur Briand, presented to me on November 6 by the French Ambassador here, on the subject of the designation of representatives to serve with the Chinese commission appointed for the taking over by Chinese authorities of areas which have been temporarily occupied by Japanese forces, you may inform Monsieur Briand that, understanding that the British and the French Governments have taken similar action, the American Government will be prepared to send representatives to act as observers in connection with the carrying out of the above arrangements, if and when made between the Chinese and the Japanese Governments.

STIMSON

793.94/2603 : Telegram

The Minister in China (Johnson) to the Secretary of State

SHANGHAI, November 11, 1931—10 a. m.

[Received November 11—5:30 a. m.]

1. I have just received the following telegram from Acting Minister for Foreign Affairs.

“His Excellency Nelson Trusler Johnson, American Minister. I have the honor to request Your Excellency to appoint representatives to proceed to Tientsin at once to investigate the serious occurrences there during the last 2 days. I further request Your Excellency to advise the American Government of the real facts that may be found by your representatives. Chinglun Frank W. Lee, November 10th.”

2. Does the Department authorize me to send Military Attaché to Tientsin to make suggested investigation?

3. Please reply Nanking. I am leaving for Nanking tomorrow night, arriving Friday morning.

JOHNSON

793.94/2540 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

[Paraphrase]

WASHINGTON, November 11, 1931.

For the Minister: Your November 9, noon.

(1) The action of the Department in connection with the memorandum under reference is regarded here as a confidential communication from this Government to the Japanese Government. None of the foreign representatives here has been given a copy of the text, and instructions were sent the Consul at Geneva to communicate only the substance, as outlined to you in my telegram of November 7, 2 p. m.,⁹⁵ to Drummond for his own confidential information and for limited and discreet communication by him to other League Council Members. The Department is informed that Drummond intends for the present, for reasons of his own, to inform only the members of the Committee of Five, but not all the members of the Council.

(2) The Department for these reasons desires that you do not communicate the substance of the telegram of November 7, 2 p. m., as suggested by you, to the Chinese Acting Minister for Foreign Affairs, but prefers the Chinese Government to receive this information

⁹⁵ Not printed.

through the Chinese representative on the Council if, when, and as, on his own initiative, Drummond may see fit to impart it to him.

(3) You may repeat the telegram of November 7, 2 p. m., to the Consul General at Nanking for his own confidential information.

STIMSON

793.94/2611f: Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, November 11, 1931—10 a. m.

327. I am announcing this morning at 11 o'clock that you will go to Paris. The announcement is in the following form:

"I have asked General Dawes, the Ambassador in London, to go to Paris during the coming meeting of the statesmen who compose the Council of the League of Nations. Inasmuch as this meeting will consider the present situation in Manchuria and questions may arise which will affect the interests or treaty obligations of the United States, I desire to have at hand in Paris a man of General Dawes' standing, particularly as the American Ambassador to Paris is at home on leave. It is not anticipated that General Dawes will find it necessary to take part in the meetings of the League Council, but he will be in a position to confer with the representatives of the other nations present in Paris in case such conference should seem desirable."

STIMSON

793.94/2720

Memorandum by the Under Secretary of State (Castle) of a Conversation With the Counselor of the French Embassy (Henry), November 11, 1931

M. Henry came in to read me a telegram from M. Briand in answer to the telegram sent him by M. Claudel on the subject of our memorandum delivered by Mr. Forbes to the Japanese.

M. Briand says that his attitude toward the Manchurian matter is very similar to ours. What he was hoping may be avoided are such dramatic instances as would make a solution of the whole matter more difficult. He thinks that the situation at the Nonni River looks better, but that it might in time become more serious. He points out that Nanking has asked that the various powers send observers to the Nonni River region. M. Briand adds that this might greatly irritate the Japanese, but that on the other hand full knowledge is necessary. His feeling would be, as representing his own Government, that it would be better to refuse this request of the Chinese, but on the other hand, if England and the United States feel that it should be done and intend to appoint observers definitely to go to this region, France

would do the same by ordering someone from the Legation in Nan-king. He feels that we ought all to take the same action.

I told M. Henry that speaking for myself it did not seem to me necessary to send some civilian, as M. Briand had suggested, from the Legation. I pointed out that we all had military attachés in Manchuria who were undoubtedly following the situation closely and that I could see no reason, as this is primarily a military matter, to send in anyone else at the moment. M. Henry said that this accorded he was sure with M. Briand's wishes in the matter. I told him that if the Secretary should feel differently about it, I would let him know.

W[ILLIAM] R. C[ASTLE,] JR.

793.94/2668a : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, November 11, 1931—5 p. m.

328. 1. The new memorandum from the Japanese Foreign Office ⁹⁶ (for copy, see my 323, November 10, 5 p. m.⁹⁷) was received after my 326, November 10, 8 p. m.,⁹⁸ was prepared and seems to me materially to affect and modify the situation as was outlined in my 326. The Japanese reply is, on its face, in substantial compliance with this Government's position as taken hitherto. The Japanese now expressly say they have no intention to insist upon the final adjustment of the entire series of controversies they have had with China as a condition precedent to withdrawing Japanese troops to the South Manchuria Railway zone. They say further that the "fundamental principles" they wish to discuss with the Chinese prior to withdrawing are "no more than those that are generally observed in practice in dealings of organized peoples with one another," and these are described in a way which appears effectually to exclude a Japanese attempt to force a solution of issues not germane to troop withdrawal, like the long-standing issues of the 1915 and other old treaties. If next week there can be applied to the settlement of this situation the statements of the Tokyo memorandum in the plain sense of the meaning of its language, this Government should be perfectly satisfied and the American position under the treaties on peace will be vindicated.

2. However, I believe the solution will not be so easy, for Yoshizawa's position at Geneva was different. To the Council he produced

⁹⁶ *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 39.

⁹⁷ Not printed.

⁹⁸ *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 41.

five points and said these were insisted upon by his Government as preliminary to Japanese withdrawal. The points were as follows:⁹⁹

- (1) Mutual repudiation of aggressive policy and conduct.
- (2) Respect for China's territorial integrity.
- (3) Complete suppression of all organized movements interfering with freedom of trade and stirring up international hatred.
- (4) Effective protection throughout Manchuria of all peaceful pursuits undertaken by Japanese subjects.
- (5) Respect for treaty rights of Japan in Manchuria."

It was agreed in the long discussions before the Council that the first four of these points were germane to withdrawal, no objection being made by Briand or the others, but Japan insisted, when pressed concerning the fifth point, that a ratification of the old treaties was included. The American position in the November 5 memorandum was thus taken in accordance with the issues presented at Geneva. In spite of the plain language of the Japanese memorandum to me, I fear you will find Japan may renew this contention at Paris in some form or other. Ever since 1915 China has protested that these treaties, having been obtained by duress, must be canceled. Japan, on the contrary, has contended that these treaties could not be so invalidated as they had been formally executed. The United States went formally on record in 1915 to both Japan and China¹ to the effect it could recognize no treaties if and insofar as they impaired the principles of Open-Door rights and the integrity of China; and in 1922 Secretary Hughes renewed this reservation at the Washington Conference. (See MacMurray, *Treaties*, Vol. II, page 1236.)

3. Historically, world public opinion forced Japan in 1922 to recede from the treaties of 1915 so far as Shantung was concerned and to evacuate this Chinese province. Now Japan is faced with a world opinion which is far better organized against it on this same issue of recent occupations in Manchuria. The Kellogg Pact and the Nine-Power Treaty, had they been in effect then, probably would have stood as barriers to such conduct in 1915 as Japan's in obtaining the 1915 treaties. Furthermore, the aforesaid pacts actually are barriers today to an attempt to validate those 1915 treaties by force. The present problem is to find a method to restore peace and to secure the protection of Japan's equitable Manchurian rights without both recognizing and validating a claim hitherto rejected by the conscience of the world and also sanctioning a violation now of the Kellogg Pact and the Nine-Power Treaty. The complexities of this position make it obvious that

⁹⁹ Quotation not paraphrased.

¹ See telegram of May 11, 1915, 5 p. m., to the Ambassador in Japan, *Foreign Relations*, 1915, p. 146.

only by a direct and pacific negotiation and agreement between Japan and China can a solution be found.

4. At the Washington Conference in 1922 the world faced a quite similar practical problem in regard to the evacuation of Shantung Province. After several years of prolonged difficulties, China and Japan were persuaded to negotiate a settlement of the Shantung question by using the following devices: First, they agreed to discuss the matter from the sole point of view of the *de facto* situation and of equity rather than of strict interpretation of legal rights; and, second, Messrs. Hughes and Balfour, or their representatives, were asked to sit during the negotiations as neutral observers. This precedent I have already suggested to Briand, with the statement that I did not desire the suggestion, however, to seem to emanate from this Government. I feel that you should keep this precedent very much in mind. Probably Dooman and/or Ray Atherton can give you a full history.

5. Aside from these troublesome old questions arising from the 1915 *coup*, I feel that patience and sympathy may well be shown to the desire of Japan for a settlement which will protect its legitimate interests and nationals in Manchuria. This Government feels that Japan unquestionably has been subjected to much harassment and its nationals to much annoyance there and that almost any fair solution preserving on the one hand the guarantees of the Open Door, law and order in that locality, and the Nine-Power Treaty, and vindicating, on the other hand, the treaties on peace, should be welcome.

6. It would definitely be a step in advance, I believe, if Japan and China might be brought at once into negotiations of some sort with or without neutral observers in attendance. From the beginning Japan has urged direct negotiations, and China has agreed to negotiations respecting the safety during evacuation of Japanese lives and property and already has appointed its negotiators. It appears that negotiations might be begun immediately, with the purpose of arranging specifically for the safety during and after evacuation of Japanese lives and property, but that the negotiators should be left to decide what were the pertinent subjects of this objective. If Japan should claim during the course of these negotiations that China's recognition of any special treaty provision is essential to the immediate object of assuring the safety of Japanese lives and property, the negotiators could then decide if this was so or not. Should China object to any such provision as not being germane to the object of said negotiation, such provision might be referred to a different set of negotiators, whose decision should not provide a condition precedent to evacuation. The Japanese representative on the League Secretariat at Geneva has been holding conversations in Paris and London with Japanese, British, and French officials and has already

developed therein a project for two such sets of China-Japan negotiations, and it seems to this Government that Sugimura's suggestion easily might be developed into a method of procedure as indicated above. I am informed that Sugimura's suggestion has already been adopted by Yoshizawa who forwarded it to his Government. Should any such plan as the above be adopted, adding neutral observers to these negotiations would appear to be great help in effectuating the purpose of our suggestion. The suggestion in this paragraph is just a snapshot suggestion for you to consider in the light of possible developments in Paris. In my opinion, any suggestion would be far more effective if its origin, instead of being labeled as American, appeared to come from Japan and China themselves.

STIMSON

793.94/2622 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

[Paraphrase]

LONDON, November 11, 1931—7 p. m.

[Received 7:25 p. m.]

434. Your 326, November 10, 8 p. m.² In accordance with instructions therein to keep you informed regarding not only the actual developments but also the envisaged possibilities, I wish to report my conferences this afternoon with the Japanese Ambassador and the British Foreign Secretary. In the judgment of both Sir John Simon and myself, it is most important for Matsudaira to be in Paris when the League Council meets, and Matsudaira rather expects his Government to ask him to go there. He appears to feel that, speaking broadly, there are no differences between the plans and purposes of his Government and of the League which cannot be resolved amiably if the matter is wisely handled, with due regard for the prestige of both the League and Japan. Upon my inquiry he stated his feeling that, in case the League removed the time limit on Japanese evacuation, Japan probably could in return make some helpful gesture toward bringing about the cessation of hostilities. With us, he felt the immediate objective at present was the cessation of hostilities through an armistice, pending the discussion of best methods and agencies for a final settlement.

Simon said in his talk with me that notwithstanding the fact the League might have the better juridical argument, Japan probably had the argument in its favor with regard to the necessary location of troops. Simon told me he was inclined to think the League had

² *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 41.

best propose stopping hostilities without suggesting changing the *status quo* of Japanese troop locations at present, until there was agreement on methods and agencies of obtaining a final settlement. In short, the immediate objective ought to be an armistice. He said this appeared to be the view of the Prime Minister. In a short talk he had had with him. When I informed Simon that practically the same opinion had been expressed to me by Matsudaira, Sir John asked me to arrange for the three of us to meet tomorrow to talk over this matter. It is significant that he instinctively recognized, as did you, the lack of wisdom of the clause for a time limit in the League's proposition. Simon thought it should be withdrawn and that such withdrawal was practicable. He thought use might be made somewhere in the effort of the procedure by which Messrs. Balfour and Hughes appointed observers in the Shantung conference about which you telephoned me. The terms in which Simon, Matsudaira, and I talked were only tentative. To both of them I explained, using your words, that the American Government desired neither to push nor to lead in connection with this overstepping matter; that the objectives of the League Council and the United States were the same, to seek to prevent war and to bring about a peaceful solution; and that I would be present in Paris simply in order to confer individually with Council members on a matter of common concern and on mutual treaty duties and interests. As you say, it is very necessary for me to proceed with caution and, if I may add, also with humility. Your press statement phrase, "it is not anticipated that General Dawes will find it necessary to take part in the meetings of the League Council but he will be in a position to confer with the representatives of the other nations present in Paris in case such conference would seem desirable,"² greatly helped and relieved me. I did not intend, as a matter of fact, under any circumstances, to be present at any Council meeting, except under your positive instruction. Your phrase, however, makes this easy without offending the susceptibilities of the League or requiring me to explain.

DAWES

793.94/2617 : Telegram

The Consul General at Tientsin (Lockhart) to the Secretary of State

[Paraphrase]

TIENTSIN, November 11, 1931—10 p. m.

[Received November 11—3:16 p. m.]

I have reported by telegram to the Legation at 6 p. m. today as follows:

² Quotation not paraphrased.

Referring to Legation's telegram of November 10, 10 a. m.,⁴ and my telegrams of November 9, 9 a. m.,⁵ November 9, 3 p. m.,⁶ and November 10, 11 a. m.,⁷ to Legation. These appear to answer in part at least the Department's inquiries as to how the trouble here began. I am informed by a reliable American that he saw plain-clothes men with white bands on their sleeves congregating in considerable numbers in the vicinity of the Chung Yuen department store, Japanese Concession, at about 10:30 p. m. Sunday (November 8) when some firing occurred outside the concession. The American left the scene but went back about half an hour afterward when more intensive firing was going on between plain-clothes men and Chinese police immediately outside of the concession. There is one other foreign eyewitness at least who saw plain-clothes men wearing white arm bands Sunday night in the Japanese Concession. It had been reported by the Chinese through one of their men who was paid \$100 to join the plotters and to ascertain their plans that the plain-clothes men were to start trouble the night of November 7 or 8. It appears unreasonable to suppose that with their intelligence service the Japanese could be ignorant of a movement of this sort involving approximately 1,000 persons. If these facts are added to those already reported, it is believed reasonably certain that the trouble was begun by men who had assembled in the Japanese Concession, though it is not definitely established whether this was with the knowledge and acquiescence of the Japanese authorities.

While the need for the 300-meter zone is not evident, its establishment does appear to have prevented more clashes between Chinese police and Japanese soldiers. However, it makes it impossible for the Chinese police to locate the plain-clothes men hiding in the zone.

Beginning this afternoon, British and French troops are on guard along the boundaries of their concessions. Guard duty will be done also by squads from the U. S. Fifteenth Infantry in its Defense Area, cooperating with the Chinese police of the First Special Area.

I am in frequent consultation with Colonel Taylor who concurs in this telegram.

LOCKHART

⁴ Not found in Department files.

⁵ See telegram No. 893, November 9, 3 p. m., from the Minister in China, p. 401.

⁶ See telegram of November 9, 4 p. m., from the Consul General at Tientsin, p. 402.

⁷ See telegram of November 10, 3 p. m., from the Consul General at Tientsin, p. 417.

793.94/2620 : Telegram

The Chargé in France (Howell) to the Secretary of State

[Paraphrase]

PARIS, November 11, 1931—10 p. m.

[Received November 11—5:22 p. m.]

724. Your 530, November 9, 4 p. m., and my 721, November 11, noon.^a

This afternoon in talking with Briand I carefully gave him the substance of your 530. He said he would endeavor to have proposed at next week's conference the plan which is described in paragraph (2) of your telegram.

HOWELL

793.94/2626 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 12, 1931—9 a. m.

[Received November 12—7 a. m.]

302. Drummond has handed me the following text of a telegram from Briand which he despatched yesterday at latter's request to Nanking and Tokyo.

"Request you to thank Chinese and Japanese Governments for replies they have made to telegram I sent them through you on November 6. After carefully studying these replies and the latest communications received, I feel I must insist once more on undertaking entered into by both Governments to make every effort to avoid any aggravation of situation. I also urge that commanders of opposing forces should receive strictest orders to refrain from initiating any fresh action. Lastly, I consider it extremely important that facilities should be given to the observers whom the members of the Council may send to the scene, particularly neighborhood of Nonni Bridge and Angangkí, to collect information referred to in resolution of September 30."

GILBERT

793.94/2603 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, November 12, 1931—11 a. m.

109. For the Minister: Your November 11, 10 a. m., from Shanghai.

1. Department's telegram No. 411, November 9, 4 p. m., to Peiping, directed that Legation ask Lockhart to collaborate with Colonel Taylor in investigating and to report by telegraph their conclusions with regard to occurrences at Tientsin; also that Legation inform Lockhart

^a Latter not printed.

that if Consular Body at Tientsin deems it advisable to make a united, impartial investigation, he is authorized to participate, but that he should not take the initiative toward organizing such an investigation.

2. In view of the above, Department perceives no special need to send Military Attaché to Tientsin. Has Acting Minister for Foreign Affairs similarly addressed representatives of other Governments? If so, report their attitude and nature of their replies. Do you consider advisable any amendment of Department's instruction as outlined in paragraph 1 above?

3. You may at your discretion reply to telegram from Acting Minister stating that, prior to receipt of his telegram, the American Government had already made arrangements to obtain from its representatives at Tientsin a report on the occurrences there.

STIMSON

703.04 2625: Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

TOKYO, November 12, 1931—1 p. m.

[Received November 12—7:25 a. m.]

215. In sending a copy of his memorandum to you of November 10th,⁹ Baron Shidehara suggested that I call on him. And in the informal discussion which [ensued?] he made the important explanation that upon the satisfaction of either of two conditions Japan was prepared to withdraw troops in Manchuria to the railway zone:

- (1) The creation of satisfactory police conditions.
- (2) Acceptance of the five points.

Speaking of the first, he said the organization of the local police under defense committees is now progressing and it has reached the point in Mukden where, according to him, nearly all Japanese troops have been withdrawing. Asked how the Japanese were exercising the attributes of sovereignty in South Manchuria, he replied that their only intervention was in the matter of police protection to Japanese and Korean citizens; that they were exercising no control over the administration, including taxation, financial expenditures, justice as between Chinese citizens, or other activities of government outside of police work. Asked how the so-called private police were paid, he said a portion of the salt tax was voted by the Chinese authorities for that purpose and that Nanking was receiving the same proportion of this tax it had before. In regard to the degree of control exercised by the Japanese over these defense committees, he said the Chinese

⁹ Received from the Japanese Ambassador on November 9, 1931, *Foreign Relations, Japan, 1931-1941*, vol. I, p. 39.

citizens openly hostile to Japan were not recognized and that the committees were not in the pay of Japan nor under the control of Japan in their operations.

[Paraphrase.] This would appear to be a conciliatory Japanese offer to open up a new, feasible way to escape from the current difficult situation. The League of Nations and the United States now might express approval of this plan and facilitate the creating of an adequate police force to enable the Japanese at the earliest possible time to withdraw their troops. [End paraphrase.]

FORBES

793.94/2624: Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

WASHINGTON, November 12, 1931—5 p. m.

224. Your 213, November 12, 10 a. m.¹³ Provided that invitation to visit Manchuria is accepted by Military Attachés of leading powers, Department perceives no objection to our Military Attaché likewise accepting.

Inform Peiping of action taken.

STIMSON

793.94/2711

The Secretary to President Hoover (Richey) to the Secretary of State

WASHINGTON, November 12, 1931.

DEAR MR. SECRETARY: The President has directed me to send you the enclosed copy of memorandum.

Yours sincerely,

LAWRENCE RICHEY

[Enclosure]

Memorandum by President Hoover

[WASHINGTON,] November 12, 1931.

It seems to me that two or three more points might be put up to Mr. Dawes for consideration:

First: It is obviously impossible for the Japanese to withdraw their troops on the one hand or the Chinese to restore order on the other, unless some form of properly established civil government is set up in Manchuria. The Japanese will not have Young Marshal Chang in view of his failure to preserve order hitherto. It would seem that the solution of this end of the problem lies in the setting

¹³ Not printed.

up of a civil government which will be recognized by the Japanese that would be responsible to the Nanking government. It would seem also that the Nanking government ought to be glad to get rid of the young marshal and establish its full and final authority over Manchuria, and that therefore if something in the nature of a viceroy of Manchuria could be appointed by the Nanking government and accepted by the Japanese the whole question of the establishing of civil government and order would fade out of the picture, as then the Japanese could proceed to withdraw as fast as he had established the situation, and the Nanking government could quite well agree to support the new viceroy in obtaining control of the troops and other agencies in Manchuria.

The second point that might be emphasized to Ambassador Dawes is that if these people would be prepared to negotiate the specific provision, that the negotiation should be carried out in the spirit of the Kellogg Pact. It might do away with the necessity to have foreign observers at the negotiation. Both sides would be quick enough to appeal if there was any infraction.

793.94 2625 : Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

[Paraphrase]

WASHINGTON, November 13, 1931—11 a. m.

226. Your 215, November 12, 1 p. m. Please be very careful that you say nothing to the Japanese to imply approval either by yourself or by this Government of either of these proposals.

I am sending Ambassador Dawes to Paris to be there during the League of Nations Council meetings. I am communicating to General Dawes what you report to me.

STIMSON

793.94/2625 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 13, 1931—11 a. m.

545. For Ambassador Dawes: Ambassador Forbes has sent the Department the following telegram of November 12 from Tokyo:

[Here follows text of telegram No. 215, November 12, 1931, 1 p. m., printed on page 430.]

I do not concur with Forbes in the view he expresses that we "now might express approval of this plan". The latter has within it the

possibility of *de facto* control by the Japanese of the Manchurian administration, and for the powers to support such a proposal at this time would give China the impression that the powers are willing to assent to dominance by Japan there. According to the estimates of this Government, these so-called "defense committees" of Chinese are a creation of Japanese military authorities, and, for the present at least, the United States should avoid either the fact or the appearance of approval of any move those authorities make. Ultimately it may be found necessary for us to acquiesce, but currently this Government should not associate itself in any respect with or countenance projects formulated or put into operation by those authorities.

Should Japan's representatives introduce any such proposal at Paris, a noncommittal attitude should be assumed by you.

STIMSON

793.94/2645 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, November 13, 1931—noon.

[Received November 13—6:18 a. m.]

925. The Consul General at Mukden telegraphed on November 12, 2 p. m., as follows:

(1) Rumors are persistent here of an imminent attempt at Mukden to make Pu-yi Emperor. Credence is given the reports by the manufacture locally of imperial dragon flags and by Japanese consular confirmation of the departure of Pu-yi from Tientsin. The Japanese Consul General at Mukden has informed the American Consulate General that the Japanese Government disapproves of the movement and is certain that it is doomed to failure even if it is temporarily successful.

(2) The Japanese Consul General at Mukden stated definitely that Japanese troops would not be evacuated by November 16. Concerning action by the League of Nations, he told Consul Vincent confidentially that he had advised his Government to ask the League to dispatch investigators to Manchuria.

(3) The Japanese Consul General said his Government had ordered Japanese troops not to advance northward from the Nonni River. He admitted the danger that irresponsible elements might cause a renewal of conflict, as opposing forces were facing one another, and he said the Japanese Consul at Tsitsihar had asked General Ma to remove his defense line to the north side of the bridge. A report by mail follows.

The foregoing repeated to the Consul General at Nanking.

For the Minister:

ENGERT

793.94/2646: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 13, 1931—1 p. m.
[Received November 13—8:30 a. m.]

926. Following from Harbin:

"November 12, 11 a. m. 1. The facts are fully established that two Japanese airplanes dropped on November 10th a score or more bombs on Ma's positions at Sanchienfang and killed several Chinese soldiers and that some of General Chang's troops commanded by Peng Fei, who is alleged to be secretly anti-Japanese, have reached Chinghsing, 20 miles south of Fularki on the Chinese Eastern Railway. Ma who has been recently appointed by Chang Hsueh-liang as acting vice commander of the Northeastern Army has sent troops against them to prevent their crossing the Chinese Eastern Railway line. The Chinese military claim that Japanese are with Peng's troops. November 11th passed quietly in the region near the bridges and the panic in Tsitsihar city subsided somewhat.

2. Tenney telegraphed last evening from Tsitsihar Station that the American missionaries at Tsitsihar city are safe and well and that he was departing last evening for Manchuria Station.

3. There are rumors regarding so-called international troops composed of Buriats, Chinese and Koreans crossing from Siberia near Manchuria Station and Taheiho and arriving at Nonni front to aid Ma. Ohashi mentioned these to me and asked if I had a check on them. The Chinese officials deny the truth of these reports and I am inclined to believe they are fabrications. Travel over the road from Taheiho to Tsitsihar is very difficult at this time and will be until the country is frozen over."

Repeated to Nanking.

For the Minister:
ENGERT

793.94/2646: Telegram

The Consul General at Tientsin (Lockhart) to the Secretary of State

TIENTSIN, November 13, 1931—4 p. m.
[Received November 13—9:10 a. m.]

The following telegram has been sent to the Legation today:

"November 13, 3 p. m. The tension which has existed since Sunday night is somewhat relaxed today due to the arrangement entered into between the Japanese and the Chinese by which the latter will send police into the 300-meter zone to search for plain-clothes men. There was some hitch, however, in carrying out this arrangement but the Japanese Consul General has informed me that an amicable adjustment has been made. There was intermittent rifle and machine-gun firing again last night but of greatly reduced intensity. Eight or ten bullets struck the buildings of the Methodist Episcopal Mission yesterday morning during the firing but no damage was inflicted.

There has been absolutely no information available today to confirm the report in the second paragraph of my November 12, 6 [27] p. m.²¹

There are two Japanese destroyers at Tangku but they cannot proceed to Tientsin because of shallow water depth of Haiho.

Foreign troops are still on duty in their respective defense areas."

LOCKHART

793.94/2649 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 13, 1931—5 p. m.
[Received November 13—10:10 a. m.]

927. Department's 410, November 5, 7 p. m. Following is Mukden's reply:

"November 11, 4 p. m. It is clear that the Japanese expect to obtain the information from the Radio Corporation through this Consulate General. However, this Consulate General is of the opinion that the Japanese properly should look to the Chinese owners of the radio station for the information. It is extremely doubtful that the Chinese will divulge the information but their very unwillingness to do so seems to indicate that neither this office nor the Radio Corporation should be the agency through which the Japanese are furnished the information. The radio station is still held by the Japanese Army and no steps are being taken to place it under Chinese control."

The Legation concurs in the views of Consul General Myers.

For the Minister:

ENGERT

793.94/2642 : Telegram

The Consul General at Tientsin (Lockhart) to the Secretary of State

[Paraphrase]

TIENTSIN, November 13, 1931—6 p. m.
[Received November 13—8:03 a. m.]

The Legation was informed by telegram at 4 p. m. today as follows:

Vernacular newspapers state that the young Manchu ex-Emperor, Pu-yi, has been taken by a Japanese vessel, under escort of Japanese guards, to Dairen. Pu-yi's Cantonese secretary has informed a high ranking officer of the British Army here that Pu-yi has been taken to Mukden. In response to my inquiry, the Japanese Consul General was noncommittal.

The foregoing repeated to the Consul General at Nanking.

LOCKHART

²¹ Not printed.

705.94 2670: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 14, 1931—9 a. m.

[Received November 14—2:04 a. m.]

232. I heard late last night, and had it confirmed this morning, that the Japanese have officially demanded that all Chinese troops be withdrawn 20 li, namely about 6 $\frac{2}{3}$ miles, from Tientsin under provisional note of July 15, 1902 (see MacMurray's *Treaties*, volume I, page 317.¹² Donald states has no knowledge Young Marshal has promised to comply but will increase Tientsin police force. Young¹³ claims only about two regiments of Chinese troops were within radius mentioned.

Repeated Tientsin, Nanking and Commander in Chief.

For the Minister:

ENGERT

705.94 2680: Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, November 14, 1931—9 a. m.

[Received 9:50 a. m.¹⁴]

1. I returned to Nanking yesterday and in the afternoon was requested to visit the President where I found my British and French colleagues. After the interview we agreed upon the following text of an identic telegram to our respective countries.

2. "The President summoned me and my British and French colleagues on November 13 and communicated to us telegrams received from Chang Hsueh-liang concerning situations at Tientsin and Tsitsihar. I understand that substance has been telegraphed to Geneva. As regards Tientsin, it was alleged that, in spite of agreement reached between Chinese and Japanese, firing was resumed from direction of Japanese Concession in early morning of November 13th. Chinese authorities at Tientsin, acting at the instance of Chinese Chamber of Commerce had approached foreign consuls with request that they arrange for foreign troops to organize some form of observation over the 300 meters neutral zone. Local Chinese authorities reported situation to be again serious. Suspensions of Chinese Government in regard to Japanese intentions at Tientsin had been increased by receipt on November 12 of strongly worded note from Japanese Minister calling upon Chinese to withdraw all troops from 20-li zone round Tientsin, in accordance with 1901 protocol, and adding that if this has not been done Japanese would take necessary measures. President appealed to us most earnestly to investigate origin of trouble at Tientsin with a view to fixing responsibility and to take

¹² Note of July 15, 1902, also printed in *Foreign Relations*, 1902, p. 198.

¹³ C. Walter Young, an American citizen and writer.

¹⁴ Telegram in three sections.

some action in interests of peace and security of other concessions to prevent further disturbances; and he urged us to accede to Chinese request for international forces to take charge neutral zone. I pointed out delicate position in which such troops might be placed if fired upon and danger of our thus being dragged into the conflict. I could not authorize such steps without instructions of my Government. But I undertook to telegraph at once to the Consulate General at Tientsin for a report on actual situation and his recommendations as to what if anything could be done to minimize danger of further disturbances and at the same time to report urgently to you by telegraph the President's wish. My colleagues took similar line. As regards Tsitsihar, report stated that Japanese agent professing to represent General Honjo had demanded of General Ma that he withdraw from Tsitsihar before midnight November 12th. Before expiration of ultimatum Japanese troops had attacked and fighting was proceeding. President begged that we would instruct our representatives on the spot to furnish [report?] on the situation for the information of the League before November 16, with special reference to responsibility for resumption of hostilities. He assured us that General Ma had remained strictly on the defensive. We said that we were receiving reports all the time and transmitting them to our Government. His Excellency urged that we should arrange for a joint investigation and report, which we pointed out would be difficult unless so instructed by our Governments. Chang Hsueh-liang's telegrams also reported that ex-Emperor, Pu Yi, had arrived at Dairen en route for Mukden."

JOHNSON

793.94/2670 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

Tokyo, November 14, 1931—11 a. m.

[Received November 14—4:29 a. m.]

217. Your 266 [226], November 13, 11 a. m. I have carefully refrained from making any statement which could be construed to indicate an expression of my Government's attitude or of mine regarding the new Japanese position.

FORBES

793.94/2686 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

[Extract]

Geneva, November 14, 1931—11 a. m.

[Received 11:55 a. m.]

307. The following is the text of a letter dated November 13th from Sze to Drummond which the latter handed to Everett late yesterday evening:

"The situation at Tientsin remains grave and threatens the most serious complication at any moment, as shown by the following telegram just received from my Government

'Firing resumed Tientsin 6:30 morning; rioters attacking near Sanpeikwan; simultaneously Chinese police machine gunned near Tingkungsu from direction of Japanese Concession; shell dropping before Chinese barriers; assailants unknown. Tientsin authorities formally requested consular corps arrange four [for?] national garrisons organizations 300-meter observation, if possible international patrol. President urging American, British and French Ministers, today issue requisite instructions.'

I should be grateful if you could urgently convey this information to the President of the Council, to the British members of the Council and to the American representative, with the request that they be good enough to secure prompt action by their Governments in the sense desired, in order to avoid the shedding of more blood."

GILBERT

753.94/2658: Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, November 14, 1931—noon.

[Received November 15—2:43 a. m.¹⁵]

108. Enclosed with a note dated November 11th, Ministry of Foreign Affairs sent (1) plans for the taking over occupied places in Manchuria, (2) regulations governing the organization of commission for the reoccupation of the evacuated territory of the northeast, and (3) a list of the members of the commission.

The plans include the inviting of the representatives of the different powers to cooperate. It is expected that these representatives will observe the working of the commission and remain in reoccupied places until they are sure that peace and order are effectively maintained. The best disciplined soldiers, gendarmes and police will be despatched by the Government to places to be taken over. Martial law is to be resorted to by the commission whenever necessary to protect life and property.

Special precautions are to be taken to ensure the safety of all Japanese nationals but the Japanese Government is expected to warn its nationals in the evacuated territory against taking any undesirable course of action. The regulations are for 17 articles. Under these regulations, and instructions from the National Government, the commission will arrange details in connection with the reoccupation and rehabilitation of the places in Manchuria now occupied by the Japanese. The commission is to be subdivided into the following sections:

¹⁵ Telegram in four sections.

1. Political, in charge of the taking over of the civil, financial, and industrial affairs of the evacuated places;
2. External affairs, in charge of consultations with the representatives appointed by the governments of the different countries, the arrangement of the details for the taking over of the evacuated places, and other matters related thereto;
3. Safety, in charge of the assignment and supervision of soldiers, gendarmes and police, and the maintenance of peace in the evacuated places; and,
4. Communications, in charge of railways, public roads, electrical communications and all other facilities for communication.

Chinese and foreign technical experts may be engaged to assist and make plans. In connection with the execution by the commission of the recommendations contained in the resolution of the League of Nations, the chairman of the commission requests invite the representatives appointed by the governments of the different countries to observe such execution. All facilities will be accorded to the representatives appointed by the governments of the different countries. The commission will record the proceedings of reoccupation and communicate, for reference, records of such proceedings to the representatives appointed by the governments of the different countries.

The regulations were promulgated by the National Government on November 7th, 1931.

Members of the commission same as listed in Nanking's telegram November 3, 12 noon, to the American Minister at Shanghai and subsequently repeated by him to the Department.¹⁶

For the Consul General:
MEYER

793.94/2675 : Telegram

The Consul General at Tientsin (Lockhart) to the Secretary of State

TIENTSIN, November 14, 1931—1 p. m.

[Received November 14—6:42 a. m.]

The following telegram has been sent to the Legation today:

"November 14, noon. The arrangement arrived at between the Chinese and Japanese by which Chinese police search for plain-clothes men in the 300-meter zone came into force this morning and has worked so far without friction. Plan contemplates clearing out two sections of area today and the remainder tomorrow and next day. Consular body considered this morning a proposal made by the Consuls that neutral observers representing the body be sent to the zone to watch the proceedings. In view of fact that inspection under

¹⁶ See telegram of November 4, 10 a. m., from the Minister in China at Shanghai, p. 364.

plan now in force seemed working smoothly today and further fact that Japanese Consul was not in position to agree to presence of neutral observers in zone without first consulting with his military authorities and submitting matter to Tokyo for instructions, consular body deferred action pending outcome of plan now in force. Japanese Consul General let it be known that he felt the matter could be and was being amicably adjusted between the Japanese and Chinese authorities. The situation is much improved today and if no untoward incident occurs during the clearing-out process, the Chinese police will be in complete reoccupation of the 300-meter zone in a few days and in some parts of the zone before nightfall. Much of the trouble in getting the agreement down to a working basis has been due to distrust on both sides. Repeated to the Department and Nanking."

LOCKHART

793.94/2671 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 14, 1931—2 p. m.

[Received November 14—4: 58 a. m.]

936. Marshal Chang Hsueh-liang has just received a telegram from General Ma to the effect that yesterday afternoon General Honjo amended his ultimatum of the previous day and now demands to occupy the railway station of Tsitsihar itself. Ma replied that there must be some mistake and that in any event he had to refer the matter to his superiors. The Young Marshal has sent the message to Nanking for immediate communication to the League of Nations and requests me to inform the Department.

Repeated to Nanking.

For the Minister:

ENGERT

793.94/2651 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, November 14, 1931—2 p. m.

[Received 2: 32 p. m.]

309. 1. Drummond and that portion of the Secretariat staff having to do with the Sino-Japanese question move to Paris this evening. They will occupy quarters in the Quai d'Orsay.

2. Beginning this afternoon no further communiqués on this subject will be issued in Geneva. They will be issued in Paris beginning the morning of November 16.

3. I have just had a talk with Drummond, the essential points of which are as follows.

[Paraphrase.] (a) While Drummond personally sees the Japanese position unchanged, he notes that press statements under London, Paris, and Washington date lines are all optimistic, which he trusts means an improvement.

(b) The situation still depresses the Chinese very much.

(c) Drummond feels that, although the term "immediate security" is perhaps too restrictive, it would, nevertheless, be taking a backward step of a stultifying sort to advocate negotiating directly on points which do not bear closely upon immediate security if the Japanese remain in occupation of Chinese territory, and this would seriously affect the international political situation, particularly disarmament projects, since in the policies of many states disarmament is allied closely with security. Drummond believes also that the Chinese would not accept such an arrangement. [End paraphrase.]

(d) No matter what the results may be of the meeting in Paris, the question will undoubtedly be continued in Geneva after that meeting. If the results in Paris are unsatisfactory, it will continue under article 11 or under some other article of the Covenant. If the Paris meeting results in a project for Japanese evacuation and other measures agreed to by the powers and by the disputants, Geneva will unquestionably play an important part in the implementing of such a project.

4. I am repeating this telegram by mail, together with all other pertinent telegrams to date to Paris.

GILBERT

793.94/2711a : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 14, 1931—2 p. m.

547. For Ambassador Dawes: I am interested to note in the press your mention of the Nine-Power Treaty of February 6, 1922. This is a very important treaty. Not only does it include relevant and precise covenants, to which all nine signatories, Japan included, are party, toward a situation such as now exists in Manchuria, but also it represents a crystallization of the traditional policy of the United States toward China, and this we cannot forget. It represents the ultimate successful embodiment in treaty form of the long efforts which were begun by John Hay to prevent China's dismemberment and to secure the Open Door. The United States is the treaty's legal custodian and, if occasion arose, would thus be in an appropriate position to invoke its article VII. I have not thought it wise so far to take this step, since the same nations have actually been in conference in the form of meetings of the League of Nations Council. However, it may be helpful for you to keep clearly in mind this treaty,

especially its article I. for use with the Japanese should they loosely talk about their "special rights" in Manchuria. To me this treaty appears to be a complete renouncing of any claim to special political rights in Manchuria as distinguished from economic rights (also see the Portsmouth treaty of 1905, articles III and IV¹⁷). Consequently, the sole indisputable legal basis of the intervention by Japan in its present form would appear to be the general international right of protection for the lives and property of nationals.

It must be remembered on the other side of the picture that China, by granting to Russia in 1895-1898 the concessions for the Chinese Eastern Railway (the southern portion of which in 1905 became the South Manchuria Railway), made it possible to construct a railway line which, militarily speaking, created for Japan a distinctly menacing situation. The use of this instrument by Russia, in pursuance of its Manchurian and Korean policies, caused Japan to resort to war to destroy the menace, and Japan was successful in this war. Under these circumstances, although it is this Government's view that the only undisputed legal rights of Japan in Manchuria under the treaties essentially are economic rights, Japan, of necessity, regards its position there as one upon which its national security depends absolutely.

STIMSON

793.94/2676: Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, November 14, 1931—4 p. m.

418. Your 933, November 14, 9 a. m.

1. You should have in mind, as should Tientsin, that the American Government was not a party to the note of July 15, 1902 addressed to the Chinese Government by the representatives of the five powers maintaining at that time the provisional government at Tientsin.

2. Are there any instances on record in which the Legation or the American consular authorities at Tientsin have joined with others in invoking that paragraph of the note in question which provides that the Chinese Government shall undertake not to station or march any troops within 20 Chinese li of the city or of the troops stationed at Tientsin?

STIMSON

¹⁷ *Foreign Relations*, 1905, p. 824.

793.94/2682: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 14, 1931—5 p. m.
[Received November 14—9:40 a. m.]

939. Following from Mukden.

"November 14, 8 a. m. 1. Kwantung army headquarters report minor clash on Nonni-Anganki front between Japanese outpost and Chinese cavalry. Four Japanese killed and one captured.

2. General Honjo yesterday informed Bess of the United Press that he intends to open railway through to Tsitsihar and keep it open. Described Nonni situation as regional station [situation?] and said that continuation of outside reinforcements and assistance, presumably Soviet, could not but aggravate the situation. Declared that Anganki situation and prevalence of banditry made withdrawal of troops an impossibility and stated that the Japanese were determined to make Manchuria law abiding. Accomplishment of this might take weeks or months, and Japanese will not quit the task until it is completed. Considered the League [proposal?] of an international police force for Manchuria highly impracticable."

Repeated Nanking.

For the Minister:
ENGERT

793.94/2711c: Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

[Paraphrase]

WASHINGTON, November 14, 1931—5 p. m.

229. The War Department has conferred with the Department of State regarding the proposed visit to Manchuria of military attachés. The two concur in the view that Colonel McIlroy should accept if the attachés of two other leading powers also accept. Concerning instructions, it is the view of the Department that the Military Attaché should consider his mission as nonpolitical, should not discuss with Japanese any phase of political questions involved in the present situation, and upon returning to Tokyo should report to you and to the War Department his observations and views. McIlroy should be informed accordingly.

STIMSON

733.94/2979 : Telegram

The Chargé in France (Sherr) to the Secretary of State

[Paraphrase]

PARIS, November 14, 1931—6 p. m.

[Received 9:58 p. m.]

740. From General Dawes: I have just conferred with Briand. His present personal attitude so far as the matter of League procedure and the substance of the Manchurian question goes may be epitomized thus:

(1) Briand recognizes that for the time being both Japanese public opinion and facts and conditions seem to necessitate no League recommendation of an immediate change in location of troops nor any reference to movements of troops, as indicating thereby a general Japanese policy, other than to protect Japanese life and property.

(2) Briand fully recognizes the necessity of accepting the fact that any League pronouncement must consider the importance of the preservation of Japanese prestige for its effect upon public opinion in Japan and also the power of the Japanese Government in the situation at home.

(3) Briand appears confident of the Japanese Government's sincerity and good intent.

(4) He seems to regard the idea of using the Shantung procedure now as having originated with the League, but he showed a decided appreciation of your suggestion that an initial committee be concerned simply with the matters of protecting Japanese personnel and property and of troop evacuation, with this committee delegating to another one the consideration of the difficult Japanese fifth point, in case it is raised, thereby preventing this question from interfering with the continuation of troop evacuation.

(5) Briand then brought up a subject which evidently was uppermost in his mind at that time, namely, my attendance at the Council meetings. Like Banquo's ghost, this subject has confronted me both in the halls of the mighty and on every street corner.

More than ever do I appreciate your wise phrasing of the announcement regarding my mission in Paris. Briand said if I did not attend the meetings here it would be generally considered to indicate an attitude by the United States of less cooperation than previously with the League's purposes in this situation and a decided injury to the League's prestige and influence.

I replied to this that were I to attend the Council meetings this would be attacked before the public at home as an advance from United States association with the League in connection with the Manchurian question to a continuing alliance of the United States with the League. Briand's reiterated insistence that my nonattendance would embarrass the League and injure its prestige was such that I told him finally, in strict confidence between ourselves, that I would consider, without

commitment, a procedure which I submit now to you for comment (if you do not comment upon it, it will be regarded by me as left to my judgment) :

After the League had had, say, two or three meetings, I said, then Briand, as Chairman, might write me to the effect that the League was discussing matters which involved American treaty rights and United States cooperation in the Kellogg Pact for the sake of peace, and for this reason my presence was desired. Such an invitation would answer in advance the demagogic attack sure to be made if I accepted a general invitation which failed to state that my attendance was desired specifically because of the discussion of American interests.

I have been careful not to make any commitment, but this morning in talking with Briand I realized that if I did not discuss this matter with him I would have been invited as a matter of course by the League to its sessions. In recapitulation, an unexplained declination by me of a general invitation would, in view of the importance of the critical situation in Manchuria at present, assuredly embarrass the administration greatly among the friends of peace at home; and any acceptance would again arouse unreasonable and demagogic attacks at home upon American association with the League, unless by stating the reason for acceptance the invitation itself should answer the critics in advance.

Another procedural method might be as follows:

You would make a statement concerning the circumstances under which, should they arise, you would wish me to be present at Council meetings, your statement to be published now or later.

The situation as it confronts me is presented herewith, and I desire the President and you not to be deterred by thinking of any embarrassment to me personally from any decision you may make in this connection. I shall wait for your comments and instructions, if you have any.

If you wish, you can reach me by telephone at Hotel Ritz. [Dawes.]

SHAW

793.94/2685 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 14, 1931—8 p. m.

[Received November 14—2 p. m.]

940. Following from Harbin:

“November 14, noon. 1. Ma has refused to comply with the terms of the ultimatum mentioned in my telegram of November 12, 5 p. m., on the grounds that he cannot unless he receives orders to do so from the Central Government at Nanking. He is striving to hold his position at least until November 16th, when he hopes that League of Nations will in some way aid him against Japanese-inspired attacks. Press reports that more airplanes are coming from Japan to Manchuria and

Secretary Chao informed me that the Chinese fear that a large number of airplanes will be sent to the Nonni to conduct a bombing raid which will shatter Ma's forces and make him quit before November 16th. Chao further confirmed press rumors that General Chang Hai-peng had personally withdrawn from the fray and was located at Taonanfu, and added that he was responsible (which I doubt very much) for securing Chang's elimination as a Japanese candidate for the governorship at Tsitsihar during his negotiations with two of General Honjo's local Japanese agents who are insisting upon the resignation of Ma.

2. Chinese and Japanese official sources state that there were no conflicts near the bridge and that quiet reigns at Tsitsihar city, and foreign reports [state?] that all was quiet at Hailar and Manchuria Station yesterday.

3. Frederic Kuhn of the United Press, who has just arrived at Harbin from Berlin via Siberia, informed me yesterday that he saw no evidence of any movements or concentration of troops in Siberia and received the impression that the Soviet officials would do nothing but protest against the violation of any Soviet rights on the Chinese Eastern Railway by the Japanese.

4. The situation at Harbin is quiet, although there is an increasing number of brigands in the near vicinity. The Japanese press is printing alarming reports that these brigands may at any time attack the city, but as long as General Ting Chao, in command of the Chinese Eastern Railway guard troops, which are paid by this railway, keeps a sufficient force here, there appears to be little danger of such an attack at present."

Repeated to Nanking.

For the Minister:
ENGERT

753.94/2722

Memorandum by the Under Secretary of State (Castle) of a Conversation With the Japanese Ambassador (Debuchi)

[WASHINGTON,] November 14, 1931.

The Ambassador came in primarily to inform the Department that his Government had ordered Mr. Matsudaira to go to Paris to be there during the session of the League. Mr. Matsudaira will, of course, have no connection with the League, but like Mr. Dawes will be on hand and available for conference. Mr. Debuchi says that he will be expected to "play ball with Mr. Dawes." He feels that it will be very valuable to have Mr. Matsudaira there because he not only stands well with the Foreign Office, but has a very high position in court circles.

Mr. Debuchi brought up with me the statement made in the papers this morning that a plot had been discovered against Baron Wakatsuki, Baron Shidehara and Count Makino.¹⁸ He said that to this

¹⁸ Grand Keeper of the Imperial Seals.

list should be added Inouye.¹⁹ Mr. Debuchi said there was no doubt of the accuracy of this report, since he had had private advices from Tokyo that ten young army officers had been arrested during October. It is possible that more may have been arrested since. The Japanese press has been ordered to say nothing about it, and has obeyed orders. The men were arrested after an attempt was actually made on the lives of some or all of these men.

The Ambassador says that with the state of feeling in Japan with regard to Manchuria, the position of the Wakatsuki cabinet is very dangerous and that, therefore, Baron Shidehara immensely appreciates the patience which the Secretary of State has shown through all the recent trouble.

The Ambassador told me something about the situation at the bridge-head on the Nonni River. He says that the Japanese troops have orders not to proceed any further north, that under no circumstances are they to get into the region north of the Chinese Eastern Railway as shown in the attached map.²⁰ He says that the rumor in the attached telegram²¹ that General Ma has been ordered to evacuate Tsitsihar is complete[ly] false, that the Chinese never stop to check up on such stories, but immediately send them to Geneva. Their principal agent for the filing of political information is said to be Racjhamin [*Rajchman?*] who was sent out by the League to take charge of sanitary measures. The Japanese Government has appealed to the League to urge the Chinese not to permit General Ma to attack the Japanese contingent guarding the bridge building. Unless such attack is made, there is no danger of further Japanese advance. All the papers say this morning would appear to show the truth of the Ambassador's remarks.

W. R. CASTLE, JR.

793.94/2698 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 15, 1931—10 a. m.
[Received November 15—4:35 a. m.²²]

941. Following from Harbin.

"November 14, 9 p. m. 1. Secretary Chao informed me at 7 p. m. today that he had received the following telegrams from General Ma, the first at 11 p. m. on the 13th, and the second at 10 a. m. on the 14th.

'At 8 p. m. on the 13th, Major Hayashi quoted to Ma a telegram from Honjo to the effect that the third clause of his ultimatum of the 12th to Ma reading in

¹⁹ Japanese Minister of Finance.

²⁰ Not reproduced.

²¹ No. 936, November 14, 2 p. m., from the Minister in China, p. 440.

²² Telegram in two sections.

part "Japanese troops should occupy Taogang Railway to Angangki" should have read "Japanese troops should occupy Taogang Railway to the main Heilungkiang Station in Tsitsihar city." Ma replied that the latter station is a station of the Tsiko line²³ and not of the Taogang line and asked if Honjo had not made a mistake in mentioning this station.

At 3 p. m. on November 13th a mixed force of about 500 Japanese infantry, cavalry and artillery attacked a force of Heilungkiang troops at Tangchih and Wulinoweh near Sanchienfang and after a struggle lasting 3 hours, owing to superior equipment, killed many and forced the remainder of the Chinese troops to fall back.²⁴

2. I am inclined to believe authenticity of these telegrams as Chao read them to me from the original Chinese telegram.

3. Chao is certain this attack is preliminary to violent Japanese attacks tomorrow and the day after.

For the Minister:

ENGERT

793.94/2696: Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 15, 1931—5 p. m.

[Received 9:35 p. m.]

741. From Ambassador Dawes: Sze called today at noon. I presently induced him to drop the recounting of Chinese grievances and to discuss the essence of the present situation, as seen by you, and with which I agree, namely: Can the question of protecting Japanese nationals and of evacuating Japanese troops be solved without interjecting in this continuing process delay due to the fifth point on treaties of the former Japanese proposal? In effect, Sze said he would agree to anything proposed by the United States but wishes very much to be allowed to mention it as emanating from this country. I submitted your proposal verbally to Sze as I had done to Briand, Simon,²⁴ and Matsudaira, and I repeated from your 328, November 11, 5 p. m., the remark that you believed any American suggestion made would be far more effective if its origin were not labeled American but seemed to come from China and Japan themselves. On this matter I spoke strongly to Sze and pointed out that what he felt would help him in Chinese public sentiment might be just the thing which would have an adverse repercussion on Japanese public sentiment or on that in other quarters not now foreseeable. Sze has promised to consider this matter confidential and merely as a suggestion to help both parties in the situation.

²³ Tsitsihar-Koshan Railway.

²⁴ Sir John Simon, British Secretary of State for Foreign Affairs.

The importance in everyone's mind here of any American position and, if I may say so, their respect for the Department's opinions is such as to render difficult the making of confidential suggestions to different parties without an impression being created of an initiative, which I am endeavoring to avoid in accordance with your request.

Repetition is the penalty of wisdom, particularly when associated with power. I think, however, that no harm has yet been done. Parenthetically, yesterday Briand told me that Simon had telegraphed him the same suggestion which at the moment I was conveying to him as from you. This was natural enough, for Simon's message was dispatched following the interview between him, Matsudaira, and me in London.

Massigli called after Sze had left and agrees fully in this matter.

A telegram from Matsudaira in London says he will be here this evening, and after seeing him I hope to report again. [Dawes.]

SHAW

793.94/2692 : Telegram

The Consul General at Tientsin (Lockhart) to the Secretary of State

TIENTSIN, November 15, 1931—9 p. m.

[Received November 15—3:15 p. m.]

The following telegram has been sent to the Legation:

"November 15, 4 p. m. The joint search of the 300-meter zone went along smoothly in one area yesterday but in the area adjacent to the river four or five Chinese armed police were discovered as well as electrified barbed wire, barricade and other defenses alleged by the Japanese to have been constructed in violation of the Hague Conference [*sic*] to keep the zone free of military activities or warlike preparations. On discovering the police and the paraphernalia described, the Japanese became indignant, charged the Chinese with bad faith and declined to proceed further with the search, notifying the Chinese that in view of these discoveries and the failure to find any plain-clothes men in the two areas searched they believed the Chinese police had been doing duty and if any more firing was directed toward the Japanese Concession they would take whatever measures seemed necessary. The Japanese thereupon restored their barricades and guards at the points abutting the territory that had been searched. I have reason to believe that the entire matter has now been taken out of the hands of the Japanese Consul General by the military who may at any time employ drastic measures. Many refugees from the Chinese city have been coming into the foreign areas today. I do not believe the situation is as good today as it was yesterday. An extremely critical situation has now prevailed for a week and normal processes looking to the settlement of the trouble are distinctly not being employed.

Chairman of Provincial Government has notified Japanese authorities that Chinese troops will be removed 20 li from Tientsin pursuant to request referred to in the Legation's 933 to the Department.²⁵

Repeated to Department and Nanking."

LOCKHART

753,34/2630: Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 15, 1931—9 p. m.

[Received 11:50 p. m.]

742. From Ambassador Dawes: This evening Matsudaira came from the train to tell me of the increasingly dangerous state of Japanese public sentiment. He has cabled his Government in an effort to have the Japanese position moderated from that previously presented by Yoshizawa to the League, and tonight he informs me that because of conditions in Japan he feared his recommendations might not be favored by the Japanese Government. Matsudaira also expressed a fear that at tomorrow's Council meeting, if at that time no favorable reply has been received to his despatch to the Tokyo Government, Yoshizawa might make a restatement of the former Japanese position in case there is any general discussion. Matsudaira came to tell me of this critical situation prior to seeing Yoshizawa, with whom he is now conferring.

Realizing the danger of a discussion at the first League meeting tomorrow while the Japanese Government's attitude remains unsettled, I am, with the concurrence and cooperation of Matsudaira, placing this specific situation before the men who should be able to control the course of the first session. I have talked by telephone already with Simon, who has just arrived, and he at once realized the critical state of affairs and will see Briand immediately after his return tomorrow to his office from the country. Simon will urge Briand to make the first session, set for tomorrow afternoon, purely perfunctory, short, and without discussion. I arranged also for Matsudaira and Simon to meet in the morning. Massigli, who represents Briand and is working with him, had arranged to call again at 10:30 this evening to hear what Matsudaira had to report. Thus I will be enabled to be additionally sure through Massigli that Briand is fully apprised of the situation prior to the meeting. I therefore think the immediate danger feared by Matsudaira can be obviated for the present.

²⁵ Dated November 14, 9 a. m., p. 436.

I now feel that it will be unwise of the Council to hold any meeting for real discussion of the situation in the next few days. The success or failure of this conference may depend upon the prior settlement of this new situation involving Japan as developed tonight.

Matsudaira probably will report tonight on his interview with Yoshizawa. [Dawes.]

SHAW

793.94/2697 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 16, 1931—11 a. m.

[Received November 16—4 a. m.]

944. [From Engert.] Following has been received from the Minister at Nanking for transmission to the Department:

"November 15, 3 p. m. Please send following to Department:

1. I find no evidence in any of the reports reaching me from Tientsin, Mukden, Harbin or Tsitsihar, of any intention on the part of the Japanese to withdraw from the stand which they have taken in Manchuria.

2. On the contrary, all information reaching me up to the present indicates that the Japanese are continuing their efforts, evidently studied, completely to destroy the prestige of Chang Hsueh-liang (and this means that [of] the Nanking Government with which he has closely cooperated) in Manchuria. These efforts now extend to the ousting of representatives of his control in Tsitsihar and Tientsin.

3. So thorough has this effort of the Japanese been that I am convinced that it would be impossible for Chang Hsueh-liang to reestablish his control of Manchuria either by himself or with outside aid. This applies equally to the establishment of the authority of the Nanking Government for it has no one to put in Chang's place.

4. All of which lends color to the growing belief that Japan intends to create a situation in Manchuria which will make it possible for the setting up of a puppet government, nominally independent but actually under and subservient to Japanese control similar to that which Soviet Russia has established in Mongolia.

5. Chinese people looked upon Manchuria as part of China. Even C. C. Wu and Eugene Chen,²⁸ with whom I talked in Shanghai, and who expressed themselves as believing that direct negotiations and a settlement with Japan were possible, insisted vehemently that China could never concede Manchuria to Japan nor could a Chinese Government ever concede the validity of the 1915 treaties.

6. It is therefore difficult here to see how League can find a settlement of the issues between China and Japan that will be a settlement and at the same time satisfactory to both.

7. I find an increasing feeling of pessimism over the situation here.

8. China has placed all of her reliance upon League action. What

²⁸ Cantonese Minister for Foreign Affairs.

will happen when the League fails to provide a solution of the problem satisfactory to the Chinese is a matter for pessimistic speculation. It is generally felt here that the authorities cannot much longer hold the people in check. The prestige of the Government is suffering and it is generally believed that when it is realized that the League can do nothing to stop Japanese aggression the people will take matters into their own hands. I am convinced that this will result in chaotic conditions throughout the whole country.

9. I assume that there is no way of bringing home to the Japanese Government a sense of their responsibility for such a situation so fraught with danger to the interests of everyone.["]"

Repeated to commander in chief.

[For the Minister:]

ENGERT

793.54.2691: Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

TOKYO, November 16, 1931—11 a. m.

[Received November 16—6:48 a. m.]

219. The . . . and . . . Ministers both have called upon me to advise me that they have cabled their Governments a strong recommendation against exercising further pressure at Geneva upon Japan. This appears to be virtually the unanimous judgment here of foreign diplomats of all countries.

FORBES

793.94/2708½

*Memorandum of Trans-Atlantic Telephone Conversation*²⁷

SECRETARY: General Dawes, I called you to tell you I received your cable about future sessions of the Council and the proposal of Briand that you should sit at them.²⁸ I wanted to say that I approve of your proposed course. I have talked with the President about it and he approves of it. He suggests that you let as many meetings go by without your going there as possible before you have to go.

DAWES: Do you think I will have to go? I do not think it will be necessary at all because I will tell you what has happened. Drummond came over this morning and Massigli came last night with the argument that I should go. Then this morning Drummond wanted me to write some letter at this time telling that in the future

²⁷ Between Mr. Stimson in Washington and General Dawes in Paris, November 16, 1931, 11 a. m.; omissions in this memorandum are indicated in the original and apparently show poor telephone reception.

²⁸ See telegram No. 740, November 14, 6 p. m., from the Chargé in France, p. 444.

conferences . . . I would not write anything at all. I said I was not going to say anything at all and I was going to keep perfectly free and not make any decision about this. Japan wants . . . a wise and necessary course. I said that they were approaching from the standpoint of . . . between us . . . little inferiority complex. But I said that we wanted to support the policy of the League in every way but we must decide in what way it was best to support the League. That they could be perfectly sure that my action here would be such in the future as to show the cooperation that the United States furnishes the League at this time. I had to be a little firm on that. Just before the meeting here and not over twenty minutes ago Briand sent over here what he proposed to say in opening the League meeting this afternoon. He asked me to make any changes in it which I thought were best, and I changed it a great deal. He goes on to explain that the situation differs from what it was in Geneva and that the United States had an official observer there and all that sort of thing and recognizes the change in the conditions. He then went on to say that they had sent me here and he copied my statement which I had prepared very carefully—and that I had come here to confer individually with the members of the Council on those matters in which the United States had treaty rights and in the general effort for peace. I scratched out the part that I might find it necessary to sit and then assured him of close cooperation in the League purpose.

SECRETARY: The general objective of the League in Manchuria—

DAWES: Peace in Manchuria. I scratched out any reference to the sitting. As time goes on and I have a chance I will talk with you first. The whole thing is over now with Briand's speech. I will read to you a copy of a telegram which is already on its way to you telling you what the present situation is.

SECRETARY: Before you do that let me repeat to you our position here. I feel that you have stated your position exactly right.

DAWES: Thank you.

SECRETARY: Briand has rather overstated what we did at Geneva. He has overstated it. What I really intended to do at Geneva is exactly what you have done here but they took Gilbert and ran him in and made a regular ceremony of it and tried to make it look as if he were sitting there.

DAWES: That is what they tried to do with me.

SECRETARY: You were right in keeping out of it. The point is to go ahead the way you have been. If it should be necessary for you to go in in order to confer about some matter in which we are deeply interested, particularly a treaty, you have authority in your discretion to do it, but I would like to know first so that I can back up your

statement and the invitation by a statement here which will make it absolutely clear.

DAWES: That is exactly what was in my mind.

SECRETARY: Make sure that the invitation which comes to you from Briand is all right and that it does not overstate the position. You get hold of his invitation beforehand.

DAWES: I do not think it will be necessary.

SECRETARY: I am only talking about what may happen—so much the better if it does not happen.

DAWES: Yes.

SECRETARY: What I say is, if it should happen contrary to our present expectations, you make sure that Briand's invitation is couched in the language which we have agreed upon as being the correct situation. Your cable to me was all right.

DAWES: Make it all the better. To confer individually regarding the treaty interests of the United States and then we can decide whether or not it is necessary to sit. I do not want to sit at all unless it is absolutely necessary from our standpoint.

SECRETARY: Let them know you are doing everything you can for peace.

DAWES: Otherwise we will open ourselves to unjustified attack by foes in the Senate. Whatever I do, I am not saying a word and I am not going to. What you see in the newspapers is not coming from me. I have not gone out of my room except to see Briand. I am going to see Sir John Simon at 6:30. He wants to see me. I am going there.

SECRETARY: What has happened—what is the news—have you anything new.

DAWES: Yes, I have. My first caller this morning was Sir Eric Drummond. Last night [apparent omission] prepared speech which Yoshizawa has expected to make this afternoon. It was furnished to Drummond and is now in the hands of Briand. The speech of Yoshizawa was prepared at Tokyo by the Japanese Government and wired to him here. Matsudaira received a copy of it last night and brought it to me this morning. I shall comment on it later in a despatch. The Chinese asked to have no speeches at this time except Briand's opening speech followed by an adjournment by the Chairman. Drummond after reading Yoshizawa's speech felt it was wise—speech however was not intended to present ultimatum. Briand might decide that that be done this afternoon. For the moment to stop the military operations of Chinese and Japanese. Because of the superior discipline of the Japanese troops. [.] They [*they*] are liable to reach a more stabilized position in two or three days. This successful military . . . for the moment by the extreme military elements in Japan

makes it wiser [not?] to arouse Japanese public sentiment. And the settlement in this event will probably go further. He says in two or three days Japan's position will stabilize the thing. Then after that it will be easier for the Japanese to withdraw from their more extreme position in the League. He thinks you [*they?*] had better not have that discussion between Sze and Yoshizawa this afternoon.

SECRETARY: Let me see if I understand that. Drummond's position is that if these speeches are not made now, in a few days the Japanese will have stabilized their position in such a way that it will be easier for them to withdraw their troops.

DAWES: It is easier for them to withdraw their troops under this committee arrangement and to satisfy Japanese sentiment. Just now Matsudaira is very much alarmed and was afraid the Japanese would send him a message because they had not answered his message suggesting what you suggested, and he was afraid it would be adverse.

SECRETARY: I have read that this morning. I have read that telegram. Let me ask you this—Is it possible that the Japanese mean that in the meanwhile during these two or three days their troops will be able to lick General Ma's Army and will be in a better position from their standpoint to hold the situation. Is it possible that during these two or three days the Japanese will advance and fight a successful battle against General Ma?

DAWES: Think better not to make the speech now, that it might be after two or three days because of the happenings in Japan. [—?]

SECRETARY: What they are trying to do is get a better situation in Japan itself?

DAWES: Yes.

SECRETARY: How about Manchuria? Are they going to be able to hold it steady there?

DAWES: Matsudaira has only got the idea of the general situation and the public sentiment in Japan. He has not got any other details.

SECRETARY: The critical situation is at the Nonni Bridge in Manchuria and I should like to know whether you have any information bearing on what the Japanese intend to do there.

DAWES: Yoshizawa is coming this evening and maybe I can get something from him.

SECRETARY: What I am concerned about is this. It looks as if the Japanese Army commanders were intending to push northward beyond the Nonni River up to the Chinese Eastern Railway, and I do not see any justification for their doing that. Have you any news on that?

DAWES: I have no information about that. I will try to get it. Drummond said that in general up to this time the Council thinks that their eventual recommendation will be this: that the Chinese and

Japanese might meet on two separate committees, one considering the safety of the Japanese people and the other the five Japanese points, and also to suggest that the position of the previous committee should not be a necessary precedent to evacuation. I telephoned to Sir John Simon, asking if I could see him at 3:00 o'clock. After your call came through I told him I would see him at 6:30. I can endeavor to keep you advised up to the minute. Here is a paraphrase of the most important portion of the speech prepared by Tokyo for Yoshizawa.

SECRETARY: Have you seen that speech?

DAWES: I am just now quoting about ten sentences to give you the gist of it. Matsudaira listened to a part of the text which I dictated but did not wish me to cable the exact words of his speech. The following is a paraphrase:²⁹

"The idea of Japan is that it is willing to withdraw its forces if satisfied that the five fundamental principles are substantially observed and practiced in the districts where those forces are at present. The Japanese feel that the efforts of local committees to preserve the peace, which were organized by resident Chinese, indicate that this is a proper method to secure the results which Japan desires in the way of troop withdrawal. Japan feels that because she has acted for the protection of Japanese lives in Manchuria, no one should feel that her desire for sincere friendship between China and Japan has weakened. Japan desires not to take a foot of Chinese territory and realizes the difficulties which confront China in the safety of their fellow-countrymen. It provides for what they consider their just and due treaty rights. Japan looks upon it as a duty".

That is the principal part of Yoshizawa's speech. I have got here a memorandum which Drummond sent over to me as giving his idea of what the League ought to do. I have not read it yet but if you have a stenographer there—it is confidential—I shall just have Shaw here read it to you.

[Remainder of memorandum not printed.]

793.94/2515 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 16, 1931—1 p. m.

551. For General Dawes: The Japanese Ambassador here some time ago brought to my attention articles 3 and 10 of the "Protocols attached to the Sino-Japanese treaty relating to Manchuria, December 22, 1905". Possibly some mention will be made to you of these articles.

²⁹ See last paragraph in telegram No. 744, November 16, 3 p. m., from the Chargé in France, p. 457.

In anticipation, I am moved to inform you that I understand the Chinese long have claimed these "Protocols" were not adopted as a part of the treaty agreement they concluded with the Japanese negotiators in 1905.

Should the Japanese bring the "Protocols" to your attention, I suggest you make no comment whatever. The right time, if and when, to discuss their character and interpretation will be not now but in the negotiations to be carried on ultimately, it is hoped by all, to settle the long-outstanding issues between the two countries.

STIMSON

793.94/2711b : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 16, 1931—2 p. m.

552. For Ambassador Dawes: My 328, November 11, 5 p. m., paragraph 4, to you in London. You should keep it clearly in mind that it was China and Japan, and not the other powers, which chose the neutral observers in the Shantung case.

STIMSON

793.94/2708 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 16, 1931—3 p. m.

[Received 6 p. m.]

744. From Ambassador Dawes: Drummond was my first caller this morning. Since last night he had been furnished with the prepared speeches which Sze and Yoshizawa expected to make this afternoon; these speeches are now in Briand's hands. As a matter of strictly confidential information to you, and not available here to others, Yoshizawa's speech was prepared in Tokyo by the Japanese Government and cabled to him here. Last night Matsudaira received a copy and this morning brought it to me; I shall comment upon it below. Sze's speech, which he sent to me, is chiefly a recountal of Chinese grievances.

After reading the two speeches, Drummond still thought the wise procedure would be to have no speeches save Briand's opening one at this time, followed by an adjournment subject to the Chairman's call. However, as these speeches are not intended to end discussion of vital points or as ultimata, Briand may decide to permit them to be read.

Nothing can for the moment stop the Japanese and Chinese military operations which, on account of the superior equipment and discipline of the Japanese troops, are likely in perhaps 2 or 3 days to reach a stabilized position favorable to the latter. A successful military stabilization of the temporary Japanese troop locations should satisfy the extreme military element in Japan for the moment, thus making it easier in respect of public sentiment there for the Japanese Government to try to meet the League's suggestions for a proper and eventual solution. They would probably in this event go further in conciliation than they have in the speech prepared for Yoshizawa to deliver this afternoon.

Drummond said that up to this time it is in general the feeling of the Council, subject to changing conditions, that in their eventual recommendation should be included a suggestion that the two disputants agree upon two separate committees, one to consider the question of Japanese safety and evacuation of Japanese troops and the other the five points of Japan, and also the suggestion that the latter committee's decision should not be a necessary precedent to solving the personnel and evacuation question.

In the process of dictating the foregoing, I received a telephone call from Sir John Simon who asked me if I could see him at 3 p. m. at the British Embassy. I shall try to keep you informed up to the minute of progress.

The next paragraph is a paraphrase which I dictated of the most important part of Yoshizawa's speech prepared in Tokyo. Matsudaira listened and approved my paraphrase, but did not want the exact words of the speech cabled by me. Here is my paraphrase:³⁰

"The idea of Japan is that she is willing to recall her forces if satisfied that the five fundamental principles advanced by her are substantially observed in practice in the districts where those forces are at present stationed. Japan feels that the efforts of the local committees appointed to preserve the peace, which were mentioned in Forbes' despatch and were organized by resident Chinese, indicate that this is a proper method for securing the result which Japan desires in the way of troop withdrawal. Japan feels that because she has acted from necessity for the protection of Japanese life in Manchuria no one should feel that her constant desire for sincere friendship between China and Japan has weakened. Japan desires 'not one foot of Chinese territory' and realizes sympathetically the difficulties which confront China. The safety of their fellow countrymen and the preservation of what they consider their just and agreed-upon rights Japan looks upon an object of duty."

[Dawes.]
SHAW

³⁰ Following paragraph not rephrased.

793.94/2694 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 16, 1931—5 p. m.
[Received November 16—9:20 a. m.]

946. Following from Harbin:

"November 16, 10 a. m. Captain Tenney returned to Harbin this morning. He stated that there were no signs of Soviet activities in area near Manchouli and Hailar."

Repeated to Nanking.

For the Minister:
ENGERT

793.94/2710 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, November 16, 1931—5 p. m.
[Received November 17—1:20 a. m.⁵¹]

It is currently rumored in Nanking that there is some sort of *rapprochement* on the subject of Manchuria between Japan and the United States. These rumors have grown from the fact of the decision by the United States not to send an observer to the League Council meeting in Paris but to send Ambassador Dawes who will take no part in the Council meetings. This, it is being said, is a concession to Japan. When Dr. Wellington Koo called on me today, I mentioned these rumors and he stated that the American decision against sending observers had caused a good deal of speculation in high official circles. He stated also that Nanking understood Japan recently had addressed a note to the United States Government, this was being kept secret, but the Department had made the comment that it offered a solution of the Manchurian problem which should satisfy both parties.

Koo, a member of President Chiang's foreign policy commission, expressed his belief that a solution must be found at this League Council meeting. I gathered that the Chinese are prepared to start direct discussions with the Japanese under League auspices or with observers appointed by the League. Naturally such a conference would be obliged to take into account the entire problem of Manchuria. Koo freely admits that this problem cannot be settled to the entire satisfaction of either Japan or China because of their conflict of desires and interests. However, he feels hopeful of finding a temporary settlement through an agreement which would place Man-

⁵¹ Telegram in two sections.

churia's economic development upon such a basis as to permit all countries to participate.

The foregoing came out casually during our conversation and, of course, is to be regarded as confidential and without committing anyone. It is reported merely as an indication of the trend of thought of a responsible member of the organization which is handling Chinese foreign affairs, and he insists that China never can concede either the validity of the Japanese treaties of 1915 or the Manchurian territory to Japan.

Can the Department provide me with any information to be used here in allaying suspicions concerning the course the United States is taking in regard to the Manchurian problem during the forthcoming League Council meeting?

JOHNSON

793.94, 2713 : Telegram

The Chargé in France (Shur) to the Secretary of State

[Paraphrase]

PARIS, November 16, 1931—11 p. m.

[Received November 17—7:07 a. m.]

750. From Ambassador Dawes: I am just back from a conference with Simon, who led up to a specific though purely personal and tentative suggestion which he submitted to me for an expression of opinion. His discussion of the situation was from a broad standpoint. Simon feels that little will emerge from the welter of talk now going on until the League recognizes that Japan must be given a consideration which will be valuable from a practical standpoint, the attaining of which will satisfy Japanese public sentiment, and which will comprise an economic as well as a juridical solution of Japan's problem. Simon has not yet tried out his suggestion on Briand, but has talked briefly about it with Matsudaira, who, however, was cautious in his comment. Simon wishes it to be understood that he is not familiar with all aspects of the situation involving relations in the past of Japan and China in Manchuria.

The tentative and purely personal suggestion which Simon handed to me reads as follows:²²

[“1. Nanking Government to give to Japan solemn and formal assurance that Japan's treaty rights in Manchuria would be respected.

2. China to address a note to the members of the League represented on the Council, plus the United States of America, undertaking to these powers that China would strictly observe the above undertaking.

3. A further term of the arrangement indicated in paragraph 4 [1]

²² Quotation not paraphrased.

above would be that the Nanking Government agrees with Japan to set up at once a technical commission for the purpose of entering upon a working arrangement between the South Manchuria Railway and the Chinese railways in Manchuria so as to put an end to unfair competition.

4. Japan to undertake to withdraw her troops within the railway zone contemporaneously with the above arrangements being entered into."

Simon said in regard to the above that the Chinese Government already has stated it would respect Japan's treaty rights in Manchuria, and it is his feeling that Japan would be justified in a greater confidence that China would keep this promise if China addressed to the League members and the United States a note guaranteeing to them that this promise would be strictly observed by China. As to paragraph 3, the successful working out of the proposition therein is obviously to the advantage of Japan.

I then pointed out to Simon what you said in your 328, November 11, 5 p. m., that ever since 1915 China has protested that these treaties were obtained under duress and must be canceled, but Japan has argued that they were formally executed and cannot be invalidated; that, furthermore, the United States Government went on record in 1915 to both Japanese and Chinese Governments against the recognition of any treaties if and insofar as there was an impairment of the principles of the Open-Door rights and the integrity of China, a reservation which Secretary Hughes renewed at the Washington Conference in 1922. I said that your statement on the United States Government's position probably coincided with that of the other signatories, save Japan, of the Nine-Power Treaty and that, if his paragraph 3 were entered into, its utilization would create a situation which would involve an application of the stipulations of this treaty such as is envisaged in its article 7. I pointed out likewise that if from a practical standpoint this arrangement meant eventual Japanese control of the parallel Chinese railroad, then it would give Japan large powers to cause delays and difficulties in handling foreign imports into Manchuria in comparison with shipments from Japan.

There probably are numerous other objections to be taken into account in this connection which would be suggested to one who is more familiar with Manchuria's actual trade conditions and customs, but it appeared to me at any rate that prior to reaching a conclusion on the wisdom of Simon's proposal at this juncture there must be weighed the many interests under the Nine-Power Treaty of the other powers. Simon agreed that considerations such as this must be completely thrashed out in our minds to see if they are insurmountable obstacles. We desire to have your observations on the Simon memorandum and please remember that, as he requested, it is put forward

by him in the way of a suggestion, as he is not familiar with the past events and agreements leading up through the years to the current difficulty.

As I told you by telephone, Briand sent me, for my approval, a typed copy of what he expected to say concerning my presence in Paris. Briand's statement was given me only a short time in advance of the meeting, and because it [i. e., my revision] had to be put into French for him it failed to reach him in time for inclusion in his speech. This I rather regret, for Briand afterwards sent word to me that my alterations were satisfactory. Following my changes, the rest of Briand's statement largely was a quotation from the interview I gave upon arriving here.

Yoshizawa is coming to see me at 9 : 30 p. m., though I shall probably not cable you about it, for he does not speak English fluently, and I shall be quite guarded in my remarks. He is the son-in-law of the Japanese opposition leader. [Dawes.]

SHAW

793.94/2709 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 16, 1931—midnight.

[Received November 17—1 a. m.]

751. From Ambassador Dawes: Answering your telephone request for latest news as to fighting, Drummond gave me the following which was communicated by the Chinese representative on the Council:

"Apparently fighting momentarily ceased around Nonni Bridge. Ma receiving peremptory demand from Honjo. We are most anxious [that?] fighting should not be resumed; extremely difficult for Ma to negotiate with Honjo's representatives in view of ever-conflicting demand. Clearly therefore indispensable prevent further fighting, that Briand arrange for immediate arrival League representatives so that arrangements between Ma and Japanese be made with his assistance and under authority [of] President [of] League Council. Indispensable also Briand telegraph this sense Tokyo in order to prevent resumption fighting.

The Chinese Government received this morning from General Ma, Tsitsihar, a report stating that at 8 last night Major Hayashi handed communication from General Honjo who stated that owing to telegraphic error his previous message unclear. Instead of that message reading that Japanese troops should proceed to Angangki to protect Taoang Railway it should read: 'To protect railway, party of Japanese troops must be allowed to proceed to Lungkiang Station.'²² General Ma was asked to give a clear reply by noon, 14th. Ma comments to Marshal:

²² Tsitsihar.

"On account of continual increase of demands I have no trust in what Japanese say or ask. I hope Marshal will put this problem before League for decision. I have already replied to Japanese as follows:

"Have received your second communication. Your previous demand was that Japanese troops proceed to Angangki. Lungkiang is a station on Tsitsihar-Koshan Railway, a purely Chinese railway not on Taonan-Angangki Railway, whose terminal is Angangki. Since your troops want to protect Taoang Railway, why do you want to proceed to Lungkiang? I am afraid some further mistake has been made by you."

(This interpreted here means that Japanese intend to occupy Tsitsihar if possible. All quiet in Tientsin last night, arrangements made for joint search 300-metre zone by Sino-Japanese police, probably take 4 days)."

[Dawes]

SHAW

793.94/2714 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 17, 1931—noon.

[Received November 17—9:40 a. m.³⁴]

950. Following from Harbin:

"November 16, 6 p. m. 1. Referring to ultimatum mentioned in my telegram November 16, noon, Secretary Chao informed me this afternoon that, acting under instructions of Ma, he informed local military representative of Honjo that no verbal reply could be given today at noon because it would be necessary to hold a meeting of the Heilungkiang military leaders before a decision could be made in regard to the withdrawal of the Chinese troops from Tsitsihar and that he (Chao) had already sent to Alfred Sze, in the name of Ma, a telegram stating that the written reply due tomorrow at noon would state that the Tsitsihar troops had been sent to the Nonni front to protect Tsitsihar against Chang Hai-Peng and other rebels, that the right to withdraw or not to withdraw these troops lay within the province of the Heilungkiang authorities who would act in self-defense, that these authorities had the right to station their troops anywhere within Heilungkiang Province and that as the Taoang Railway was in Heilungkiang Province the Provincial authorities have the right to search trains or stop them from running.

Chao also added that yesterday Japanese airplanes threw bombs on Chinese troops at Sanchienfang and flew over Tsitsihar city but did not drop bombs there.

2. The women missionaries mentioned in my telegram November 12, 11 a. m.,³⁵ withdrew from Tsitsihar at my request and arrived at Harbin this morning. Mr. Vos is now at Tsitsihar Station of Chinese Eastern Railway where I believe he is safe for the time being.

³⁴ Telegram in two sections.

³⁵ See telegram No. 926, November 13, 1 p. m., from the Minister in China, p. 434.

3. Ohashi denies that there was any serious fighting at the front on my arrival 13th as allegedly reported by American correspondents but only skirmishes between outposts."

Repeated to Nanking.

For the Minister:

ENGERT

793.94/2710: Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, November 17, 1931—4 p. m.

112. For the Minister: Your November 15, 3 p. m.³⁰ and November 16, 5 p. m., from Nanking³¹ have been partially repeated for the confidential information of Ambassador Dawes in Paris.

In regard to your request for information: On several occasions and in several quarters the Department has referred to the method by which the Shantung question was settled at the Washington Conference as indicating a possible way to handle the problem of the current situation. On each occasion the wish has been expressed by this Government that such a suggestion not be mentioned as emanating from this country, since it is considered desirable here for the suggestion to be advanced by either Japan or China. Ambassador Dawes has informally discussed the idea with Sir John Simon, M. Briand, and Messrs. Matsudaira and Sze, and this idea has been the ground of this Government's hope of some such solution of the difficulty being worked out in the Paris conferences. The "optimism" mentioned in press reports has been based in considerable measure upon this, together with references occasionally in the Legation's telegrams (such as the one under reference) and in telegrams from the Embassy in Japan, indicating that a proposal of this sort might receive ultimately the favorable consideration of both China and Japan.

No sort of *rapprochement* on the subject of Manchuria has been created between the United States and Japan, nor has there been any attempt to create such. The American note to Japan stressed the point a solution should be achieved through peaceful means and attention was called to agencies therefor, but no terms of settlement were discussed or suggested. (See my November 7, 2 p. m., to the Consul General at Shanghai for the Minister.^{37a})

³⁰ See telegram No. 944, November 16, 11 a. m., from the Minister in China, p. 451.

³¹ *Ante*, p. 459.

^{37a} Not printed.

The position of this Government in sending Ambassador Dawes to Paris was reported to you in my 110, November 12, 5 p. m., to Nanking.²⁸

Summaries of your two telegrams above-mentioned should be repeated for the information of the Ambassador in Japan.

STIMSON

793.94/2717 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING. November 17, 1931—5 p. m.

[Received November 17—10 a. m.²⁹]

952. Following from Harbin.

"November 16, noon. 1. Japanese Consul, his staff and remainder Japanese residents, including Major Hayashi, who negotiated with General Ma regarding bridge, of Tsitsihar, numbering 13 persons arrived at Harbin yesterday morning.

2. Local press this morning reports minor clashes at Nonni River front yesterday in which Japanese driven back, some killed and some made prisoners. These reports confirmed by local Chinese officials, who are becoming proud of so-called ability of Tsitsihar troops, and are aiding the latter with money gifts and clothing and with words of encouragement. This elation on the part of the Chinese will cause the Japanese military to push onward to save the 'face' of the Japanese Army, which have been no doubt sending reinforcements to the Nonni front.

3. Ohashi returned to Harbin yesterday morning and confirmed to me ultimatum of Honjo delivered to Ma on the 15th as mentioned in my telegram November 15, 1 p. m.

Local Commissioner of Foreign Affairs stated that Ma has been requested to give an answer in regard to his willingness to comply with the terms of the ultimatum by noon today and that he expects fighting to take place this afternoon. American journalists who returned from Tsitsihar yesterday morning feel that General Ma is determined to resist Japanese attacks.

4. There is unrest among Mongols of Barga and I believe that Princes Hulantai and Ku of the Young Mongol Party are being influenced by the Japanese, not by Soviet Russians, to agitate for Barga autonomy."

Repeated to Nanking.

For the Minister :

ENGERT

²⁸ Not printed.

²⁹ Telegram in two sections.

793.94/2689 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, November 17, 1931—7 p. m.

113. For the Minister: Your November 14, 9 a. m., from Nanking.

(1) With regard to the request of President Chiang that this Government participate in investigating the origin of the Tientsin trouble, the Department will wait for further word from you based upon the telegraphic report you have asked the Consul General at Tientsin to make. Reference is made in this connection to Department's 109, November 12, 11 a. m., to Nanking, paragraph 2, asking you if you deemed it advisable to amend the Department's instruction to Lockhart concerning an investigation.

(2) Regarding President Chiang's desire for United States participation in a joint investigation of the Tsitsihar situation, the Department approves your reply that representatives of this Government in Manchuria were reporting currently on developments to their Government. At this time the Department prefers not to make a further statement in this connection. Daily reports on the situation are coming from Hanson through the Legation, and portions of these are being relayed by the Department to Ambassador Dawes.

STIMSON

793.94/2735a : Telegram

The Secretary of State to the Chargé in France (Shaw)[Paraphrase ⁴⁰]

WASHINGTON, November 17, 1931—7 p. m.

559. For Ambassador Dawes:

(1) On November 17 the *New York Herald-Tribune* carried an article, dated Washington, November 16, which stated "it was learned tonight on high official authority" that "At no time in the negotiations . . . was [Katsuji Debuchi,] the Japanese Ambassador left without confidence that the American Government would refuse to follow the League of Nations either in a proposed economic boycott of Japanese exports, withdrawal of world diplomatic representatives from Tokio or insistence upon the withdrawal of Japanese troops from occupied Manchurian territory by today."

(2) No statement nor commitment has been made by the Department regarding its attitude in connection with a boycott of Japanese

⁴⁰ Quotations not paraphrased.

exports or the withdrawal from Tokyo of diplomatic representatives. You are informed fully of the Department's attitude regarding the withdrawal of Japanese troops.

(3) The same article has the following subheading: "Utmost Support Pledged to Geneva Disavowed by State Department in Conferences With Debuchi." There is, as you are aware, no basis for such a statement.

STIMSON

793.94/2728 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 17, 1931—7 p. m.

[Received November 18—1:17 a. m.]

756. From Ambassador Dawes: I am informed by Arthur Sweetser⁴¹ that this morning at the Council's private meeting, without the Japanese and Chinese, it was decided to have Briand see the Japanese this afternoon to attempt to find out the precise importance they attach to their fifth point in connection with the safety in Manchuria of Japanese lives and property and exactly which treaties they consider to be pertinent to this issue. Sweetser says that Briand will talk with Sze as well. The next private meeting is scheduled for 11 a. m. tomorrow. [Dawes.]

SHAW

793.94/2742 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 17, 1931—8 p. m.

[Received November 18—2:17 a. m.]

757. From Ambassador Dawes: Herewith I report in sequence my interviews.

The first to call was Sze. It is necessary to be guarded with him as he is evidently anxious to have our country disregard its attitude of strict impartiality, which of course must be maintained. For instance, he said that, if the United States asked it, he would insure his Government's consent, for the purpose of stopping the fighting, that foreigners other than Japanese could head and control the local organizations of Chinese police for the protection of Japanese in Manchurian

⁴¹ An American citizen, member of the League of Nations Information Section at Geneva.

cities. Any such proposition as this, I told him, should be made by him not to me but to the League.

Drummond called at 3 p. m. He says the Council is extremely anxious for some sort of a proposition from Japan and has urged the Japanese to make one. As Simon talks freely with Drummond, we discussed somewhat Simon's tentative suggestions which I telegraphed you in my 750, November 16, 11 p. m.

Matsudaira at 4 p. m. brought me a memorandum of a proposition the Japanese delegation had discussed as something which might be authorized by their Government and which reads as follows:⁴²

"1. The Japanese and Chinese Governments shall enter into conversations with a view to reaching an agreement to constitute the bases of security of Japanese subjects in Manchuria (five fundamental principles).

2. The first point being admitted, the nomination of a commission to be made up of X members to be sent to China (China proper and Manchuria) by the League of Nations and entrusted with the making of investigations into such questions as anti-Japanese agitations, etc., with a view to placing the Council in a position to deliberate on the basis of complete information.

3. The Council shall be kept informed of the progress of the above-mentioned negotiations."

The foregoing is purely tentative. However, the Japanese delegation has cabled it to their Government for its comment. In the opinion of Matsudaira, in paragraph 1 it is in line with the suggestion of procedure from you which I communicated to him and Simon in London. This evening Matsudaira will take it to Simon and state to him, as he has to us, that the memorandum is purely tentative and has been wired to his Government for its comment.

I inquired of Matsudaira concerning the idea of Simon's memorandum, a criticism of which I sent you yesterday in my No. 750. I believe I can say that it impressed Matsudaira, for he did not offer any objection to it in principle. He is cabling it to Tokyo, as I did to you, to await comment.

The more I consider the situation, the larger the Nine-Power Treaty looms in it. Nearly every proposition under discussion in Paris upon which agreement is being sought will need the consideration of each power which signed the treaty. It would appear quite probable that article 7 thereof must be invoked eventually before any really constructive and permanent solution of this situation can be reached and whether or not the League succeeds or fails temporarily in its present effort. It is of course unwise for me at this time to discuss this subject here, but your comments would be appreciated as a guide. [Dawes.]

SHAW

⁴² Quotation not paraphrased.

793.94/2743 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 17, 1931—9 p. m.

[Received November 17 (18?)—3:04 a. m.]

758. From Ambassador Dawes: [Paraphrase.] I have been handed a confidential résumé by Sir John Simon on the Manchurian situation as he sees it as follows: [End paraphrase.]

"There is strong reason to fear that unless some new mode of treatment can be suggested this troublesome matter may drag on indefinitely and the prestige of the League will greatly suffer. Up to the present the Council of the League has appealed to both sides in the controversy to exercise restraint and has taken note of Japan's assurance that she will withdraw her troops as soon as circumstances permit. But as things are going at present Japan will concede that circumstances do not permit for a long time. And the fundamental condition which Japan seeks to lay down that the treaty position between herself and China in reference to Manchuria should first be cleared up gives endless opportunities for delay.

The practical question is whether Japan's willingness to withdraw could be stimulated by anything which the League could do. Is there any point where she might feel it was in her own interest to withdraw because she will gain something which she has not now?

It seems to me that there is one point of which Japan is at present in a very weak position and where it might be possible to get her withdrawal in view of that position being strengthened. Her juridical position in Manchuria is weak, for her troops are on Chinese soil where on League principles they have no right to be. It may be a very good practical answer that Japanese troops are where they are because Japanese lives and property in Manchuria need protection but on League principles in such a case Japanese forces should not occupy Manchuria first and argue afterwards but should rely in the first instance on an appeal to the League. Japanese policy therefore at present is exposed to the reproach that settlement by acting contrary to the principles of the League whatever may be the practical justification or the excuse which public opinion may make for her [*sic*]. Presumably Japan would prefer, other things being equal, to act as a faithful member of the League should. Is it possible to devise a solution which Japan might be willing to embrace because she would get out of the juridical weakness of her present position?

Japan is not prepared to withdraw in return for China's undertaking to respect treaty rights because experience shows that China has sometimes been impotent to fulfill them. But suppose that China at present delivered a note giving such undertakings to the other states and to the United States of America, the result would be that if China disregarded her undertakings in the future she would be disregarding a promise made to the Council of the League and to America, and Japan would be able to point to this fact and urge that China was the wrongdoer and that all the powers to whom China had given assurances should press for compliance. Is it not worth while considering whether such a promise given to the other powers and

America is possible and whether Japan would not regard it as valuable for the reason above given?

The immediate origin of the Manchurian trouble in its present critical stage was, I understand, railway competition with the South Manchuria Railway. It may be that there are other railway questions between China and Japan in Manchuria. Would it be possible to urge China, as part of the arrangement, to enter into an agreement with Japan to appoint a technical commission with, say, a neutral chairman, for the purpose of drawing up a 'working agreement' with a view to ending unfair competition and securing the operation of Manchurian railways as a combined system? This agreement between China and Japan might also be repeated in the note given by China to the other powers.

If undertakings and arrangements on these lines were practicable, Japan ought to be prepared to withdraw her troops when it is signed, for she would no longer be relying on China's promise. She would have gained two points of great importance:

(1) The knowledge that if China defaulted Japan could ask the League and America to join in bringing pressure on China in view of China's promise to them and,

(2) An agreement to reach an adjustment of the railway trouble.

Japan would be quick to note that such a solution as this puts her in a strong legal position for the future whereas she is now in a weak one. China would at any rate be able on these terms to get Japanese troops withdrawn. The League would have taken an effective part in clearing up the situation and would emerge from it without discredit. But if something of this sort is not possible it is difficult to see how, as a practical matter, Japanese can be induced to withdraw or how a severe blow to the moral authority of the League can be avoided."

[Dawes.]

SHAW

793.94/2713 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 17, 1931—11 p. m.

560. For Ambassador Dawes: Referring to Embassy's No. 750, November 16, 11 p. m.

As to Simon's proposition, the trouble is that it yields the central point for which the League of Nations and the United States have both been contending; that is, that Japan shall not be permitted to extort by force a ratification of these treaty rights. In your answer to him you exactly hit the point. The United States does not object, providing China consents, to Japan's obtaining a ratification; but

to permit Japan to get it as a result of the pressure of its armed occupation would make ducks and drakes of all the laboriously built-up peace treaties. Is it not the chief thing to get Japan and China into negotiations with such agenda limitations and under such circumstances that no one can say a ratification of the treaties was being wrung out by force. It is still my opinion that the most likely road to settlement is offered by the presence of neutral observers and that, if pressed hard enough, Japan would consent to them. If Japan refuses, it will be necessary to outlaw her and let her sizzle for the time being under the influence of a good Chinese boycott and feeling against her all the moral pressure of the world. The Japanese Army has been as hardboiled as an Easter egg, and if finally our views have to be publicly stated, they will be sufficiently forcible to crack the egg. If Matsudaira knew this it might help.

Today there are current certain press reports to the effect that this country is weakening in its insistence upon not making the settlement of these broader questions a condition precedent to withdrawing Japanese troops and in its desire for cooperation in this objective with the League. These stories are utterly false, and this Government's position is entirely unchanged. I hope you will make sure that this is understood by Matsudaira and Yoshizawa.

STIMSON

793.94/2734 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 18, 1931—9 a. m.

[Received November 18—3 a. m.]

953. Reuter reports from New York, 17th :

"America's attitude towards Japan as set forth in *New York Herald-Tribune* is that State Department is sending firm note to Tokyo declaring that United States supports efforts of League of Nations to persuade Japan to evacuate forbidden territory in Manchuria. Simultaneously, however, Japanese Ambassador has been privately assured at Washington that United States will not go to the extent of backing up her demands by force. She will not follow the League in any economic boycott nor in the withdrawal of diplomatic representatives from Tokyo."

Is the portion beginning "simultaneously" to the end a quotation from the newspapers?

For the Minister :

ENGERT

793.94/2741 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 18, 1931—9 a. m.
[Received November 18—5: 15 a. m.]

954. Mandate of National Government issued 16th refers to situation in Manchuria and proceeds:

"All agreements of sale or lease or those similar to a lease or sale concerning forests, mining property, barren land, fishing grounds and railways in China, et cetera, either owned by local governments, public or private legal bodies or individuals, which have been made clandestinely with foreigners without authorization of the appropriate ministry of the Central Government, shall all become null and void, in order that national sovereignty and the people's livelihood may be protected."

For the Minister:
ENGERT

793.94/2739 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 18, 1931—11 a. m.
[Received November 18—5: 15 a. m.]

955. By mandate of National Government issued yesterday General Wan Fu-lin's resignation as Chairman of Heilungkiang is accepted and General Ma Chan-shan is appointed in his stead.

For the Minister:
ENGERT

793.94/2738 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

TOKYO, November 18, 1931—noon.
[Received November 18—7: 07 a. m.]

222. The Military Attaché is informed by the General Staff here that the dispatching of an additional division to Manchuria is being considered. The Military Attaché is apparently of the opinion that approval has already been given this movement. It is stated also by the General Staff that three more air squadrons have gone to Manchuria.

FORBES

793.94/2744 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 18, 1931—3 p. m.

[Received November 18—6 a. m.]

956. Young Marshal's office has received telegram from General Ma that large Japanese forces with six bombing planes attacked shortly after 4 a. m. today, that Chinese were being hard pressed and that he considered his position very serious.

My informant added that Japanese were evidently carrying out their threat to wipe out Ma's troops.

Repeated to Nanking and commander in chief.

For the Minister:

ENGERT

793.94/2743 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 18, 1931—5 p. m.

565. [For Ambassador Dawes:] Referring to Embassy's No. 758, November 17, 9 p. m.

If an agreement could be brought about at any time between China and Japan as to what treaties are valid, thereby clearing up any uncertainties of interpretation, then the application of the suggestion by Simon might well be helpful in giving to Japan an additional assurance that China will respect her obligations. My opinion has always been that, instead of direct action on the part of Japan, she should be shown some substitute in order to insure China's respect for her valid rights. It has been my belief that some way should be discovered to convince Japan that the same moral pressure would be exerted by the nations of the world upon China to insist that she live up to her obligations as is being exerted now against Japan in insisting that she use no military pressure to enforce her claims. The underlying thought of Simon appears to be in accord with this idea; but in my 560, November 17, 11 p. m., I pointed out that his plan, as stated, appeared to fail to take into consideration the vital distinction between treaties admittedly valid and those claimed always by China as invalid.

STIMSON

793.94/2746: Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

Tokyo, November 18, 1931—6 p. m.

[Received November 18—8:55 a. m.]

223. Your 230, November 16. 2 p. m.⁴³ The . . . Minister's call was a special one, evidently intended to inform me of the report he sent his Government. Today he has developed further his theme to the effect that pressure, he feels confident, will only consolidate Japanese public opinion and enhance the power of the Japanese military. The very definite opinion was expressed by the . . . Minister that the present conservative Government here is the most conciliatory which could be organized and should be supported, since any change is likely to tend toward a more militant attitude. Both Ministers confirmed my observation concerning the unanimity of attitude in the diplomatic corps, only one minor exception being noted by the . . . Minister.

Rumors of an impending Cabinet change within either a few weeks or months fill the air, but as yet there is little of a definite nature. Three reasons for a Cabinet change are advanced: weak Japanese diplomacy relative to the League of Nations, the Cabinet's weakness since September 18 with respect to the Japanese military, and the financial situation. As to the Cabinet which will be formed to take the place of the present one, three possibilities are mentioned:

(1) A "coalition" cabinet will be formed by a part of the Minseito, led by Adachi, now Minister for Home Affairs, and by a part of the Seiyukai, led by Tokonami. Lacking a precedent, this does not appear probable. Both men, especially the latter, are politicians instead of statesmen, are opportunists, and would not enjoy the country's confidence. Forming a cabinet in consequence of such an intrigue probably would be opposed by powerful personages such as Prince Saionji and Count Makino, men who play an important role at the time of a political change.

(2) The Seiyukai will form a cabinet. At the present time this does not appear probable. The reputation of the Seiyukai still is unsavory as a result of the scandals when it was in office under Baron Tanaka. It is doubtful that the personages mentioned above would find this minority party acceptable at present.

(3) Premier Wakatsuki will continue in office to form a coalition cabinet composed of Minseito, Seiyukai, and independents. This is regarded to be most probable of the three surmises in case the Cabinet falls in the near future.

⁴³ Not printed; it requested further information concerning the action reported in Ambassador's telegram No. 219, November 16, 11 a. m., p. 452.

Undoubtedly the situation is very tense, but it will certainly calm down if given time and in the absence of irritating developments. Rumors flood the press, and the Government daily issues bans against publishing significant items. Yesterday, for example, one ban prohibited any news, except when given out by military authorities, of the movement of two divisions; another banned any information concerning the proposed extension of the South Manchuria Railway; a third banned any comment on Japanese aid in connection with the ex-Emperor of China leaving Tientsin. The newspapers are busily commenting on possible compromises and speculating on conditions. Two days ago the *Japan Advertiser* here published a good deal of the information reported in my 215, November 12, 1 p. m., about the alternative conditions of Japanese withdrawal being given out by the Tokyo Foreign Office. Colonel McIlroy has returned from the maneuvers preparatory to leaving by way of Manchuria. He saw the assembling of numerous transports, as if to move a large force of troops, while troops going to Mukden are coming from the extreme north of Japan. He reports every railway station packed with children waving flags and trains full of troops every 30 minutes; all of this gave the appearance of an organized effort to create wartime enthusiasm.

FORBES

793.94/2735 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 18, 1931—6 p. m.
[Received November 18—9:10 a. m.]

959. Following from Mukden.

"November 18, noon. Kwantung army headquarters announced that Japanese offensive was launched on Nonni front at dawn today."

For the Minister:
ENGERT

793.94/2649 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, November 18, 1931—6 p. m.

425. Your 927, November 13, 5 p. m. The Department is of the opinion that the Japanese, if they seek the information in question, properly should look to the organization that was in control of the station when they took it over; also that the Consulate General at Mukden should not be the agency or channel through which such information is furnished to the Japanese. In case the Radio Corporation

should manifest a desire to furnish this information to the Japanese. the Department would not desire to interfere with such action as the Radio Corporation may consider it advisable to take to protect its interests but the Department suggests that, as a matter of protection, the Radio Corporation should first advise and or consult the organization with which it concluded the traffic agreement.

STIMSON

793.94/2767: Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

TOKYO, November 18, 1931—7 p. m.

[Received November 19—9:50 a. m.]

224. The Minister of Foreign Affairs informed me that all yesterday he had understood that General Ma had agreed to the proposal of the Japanese, namely, to withdraw his forces to Tsitsihar, return those drawn in from other posts and not impede the operation of the railroad which when done the Japanese would immediately withdraw. He stated their position was such that with the Chinese threatening they were unable to withdraw in safety from their present positions. General Ma had informed the authorities in Harbin that he had accepted the Japanese terms and had despatched a messenger, expected to arrive yesterday morning, with his acceptance. Contrary to expectation the message was not an acceptance. This morning the Chinese launched a heavy attack and the situation was very disturbed. The Assistant Chief of Staff has been despatched with instructions that whatever the outcome of battle the Japanese armies are immediately to withdraw and under no circumstances to occupy Tsitsihar. He thinks this situation will clear itself within 3 or 4 days and stated positively that the additional division had not yet been sent.

He described the departure of the young Emperor as wholly on his own initiative and due to fears for the safety of his life which has been repeatedly threatened in Tientsin until he could not sleep. He was not assisted by the Japanese troops or civil authorities in this move but is now being "protected" by them at some resort in Manchuria, one feature of the "protection" being that he is not allowed to communicate with the various defense committees. Baron Shidehara characterized him as weak, inexperienced, and stated that neither the Japanese civil or military authorities would favor his assuming the position of Emperor. He added that in the character of simple "Mr. Pu-yi" he might be selected by members of the defense committees as a sort of general chairman at some later period. The Baron further stated that he and the military authorities had been in entire accord.

FORBES

753.94/2835

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] November 18, 1931.

The British Ambassador said that two or three days ago there had been printed a statement that we had assured the Japanese Ambassador that under no circumstances would the United States take part in any sanction against Japan which might be instituted by the League of Nations nor would it consider the withdrawal of ambassadors. He said that this report had been denied this morning, but that he wanted to check up on the truth of it since the first statement had been published in Tokyo and the British Ambassador there had telegraphed him.

I told him that the denial was correct, that there had been no foundation whatever for the original statement because it was perfectly obvious that no one in the Department would have been so foolish as to make any statement of the kind to the Japanese Ambassador. I said that we had always said that we reserved complete liberty for future action. The Ambassador said he had supposed this was the case and that he knew it would relieve the British Ambassador in Tokyo to be so informed.

W. R. CASTLE, JR.

793.94/2742 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 18, 1931—7 p. m.

569. For Ambassador Dawes: Referring to Embassy's No. 757, November 17, 8 p. m. The Matsudaira proposition is the most important thing reported by you today. If my understanding of it is correct, I think it would involve surrendering substantially the American position and should be rejected for the reasons below:

(1) Matsudaira desires an agreement for China to negotiate with Japan with regard to the five points, including the much-disputed fifth point on treaty obligations, and to do this without protecting China against the oppressive position in which she is placed now by the Japanese occupation. Plainly put, Matsudaira asks China to agree to negotiate the validity of treaties under dispute without having even the protection of neutral observers. The latter protection was the least which this Government felt China could accept, on the assumption that the Japanese occupation still was in effect.

(2) Matsudaira then desires that an investigation be made of the grievances in both China and Manchuria which Japan claims it has suffered from China, and he is prepared to have this investigation by a neutral body. Thus Matsudaira refuses where Japan is on the de-

fensive to have even neutral observers and proposes where China is on the defensive to have a neutral investigation. This appears to me merely as disingenuous window-dressing and does not at all meet the point this Government has had in mind.

Unless I have misunderstood entirely your report of the Matsudaira proposition, I do not think under these circumstances that it adds anything to the efforts on behalf of a genuine settlement and ought to be rejected.

Coming from Matsudaira, such a proposition is, in fact, one of the most discouraging things I have heard. It is tending to force me toward concluding that a settlement which this Government can accept in the light of the treaties on peace is, after all, getting to be increasingly hopeless and that the only recourse left may be for everyone to close the negotiations, to make public the whole damning case against Japan, and to rest upon the reaction of public opinion which in the United States would be overwhelmingly against Japan. I shall regret greatly reaching this conclusion, but to me the trend of the latest communications appears to be in this direction. I shall hope to have better news tomorrow from you. Since I am not making any communications to the Japanese Government lest I interfere with your negotiations, you had better yourself inform Matsudaira, if you believe Japan should be aware of the way my thoughts are tending.

I agree wholly with your statement about the Nine-Power Treaty's importance, but a full opportunity has been afforded by the Geneva and Paris Conferences to bring to the attention of Japan its obligations under this treaty, and I can see nothing in Japan's attitude to indicate that it would be amenable any more to a direct invocation of this treaty than has been the case already in the negotiations under the Covenant of the League of Nations.

STIMSON

793.94/2758 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 18, 1931—8 p. m.

[Received November 18—7:10 p. m.]

762. From Ambassador Dawes for President Hoover and Secretary Stimson:

As suggested in your 560, November 17, 11 p. m., I have made it perfectly clear to the Japanese that the United States insists strongly upon Japan's not being allowed to extort by force a ratification of treaty rights and that it emphatically insists upon the settlement of these broader questions not being made a condition precedent to

Japanese troop withdrawal. I also said that this Government is cooperating on these objectives with the League of Nations. They understand the American position to be entirely unchanged in this matter.

You say in your 560:

"It is still my opinion that the most likely road to settlement is offered by the presence of neutral observers and that, if pressed hard enough, Japan would consent to them."

I reported in No. 757. November 17, 8 p. m., from Embassy the memorandum of a proposition discussed by the Japanese delegation among themselves as something their Government might authorize and the full text of which they had wired to their Government with a request for authority to present it to the League Council. The Japanese delegation has not received an answer to this cablegram but, realizing that the occurrences on the fighting front have precipitated an extremely critical situation, they have now cabled to Tokyo for authority to submit only point 2 to the League, with point 1 to be withdrawn, even though it had been a condition for agreement to the substance of point 2. Thus the Japanese delegation hopes now to get its Government to permit it to propose the nomination of a commission consisting of League members to be sent by the League to China (China proper and Manchuria) and entrusted with making investigations into questions such as anti-Japanese agitations, etc., with a view to enabling the Council to deliberate upon a basis of complete information. As I dictate this, the Council is hearing Yoshizawa report the sending of this second recommendation to his Government and express his hope of obtaining authority to present the matter to the League.

I was given a confidential statement by Matsudaira of an alarming internal condition in Japan, one so dangerous to existing authority there that he cannot permit it to be discussed. This concerns the leaders of a plot against the Government, who exercise direct control over the command at the front. I fear anything almost may happen in Japan, and Matsudaira himself considers this one of the most critical internal periods in Japanese history. I have advised him strongly to inform Sir John Simon of exactly what he told me. Matsudaira had told me about it after a strong statement from me on the determined attitude of my Government and on what I believed would be the effect of today's military operations upon public sentiment in condemning Japan's position. Nothing would appear to be lacking in the recommendations of Matsudaira to his Government, but he strongly fears that, for the time being at least, the power to determine policy is beyond the Government's control. [Dawes.]

SHAW

793.94/2778b: Telegram

The Secretary of State to the Chargé in France (Shaw) 44

WASHINGTON, November 18, 1931—9 p. m.

571. For Ambassador Dawes: On November 18 I issued to the press a statement as follows:

"I want to correct certain erroneous statements which have appeared lately in the press.

It is not true that this Government has changed in any way the attitude on the Manchurian situation which it has held from the first.

The American Government has not proposed any terms of settlement either to Japan or to China, has not been approached by either Government on the subject of terms which it might approve, and has made no commitments, either express or implied, to either of the disputants.

This Government has consistently urged and is continuing to urge that only peaceful means and not military pressure shall be used in the settlement of the dispute between China and Japan regarding Manchuria. It understands that this is the essence of the position taken by the nations represented on the Council of the League of Nations at Paris. This Government earnestly hopes that the negotiations now going on in Paris will find a way which will lead to a settlement of the difficulty in accordance with these principles."

STIMSON

793.94/2759: Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 18, 1931—9 p. m.

[Received November 19—12:50 a. m.]

763. From Ambassador Dawes: Sweetser reported the private meeting of the 12 members of the Council excluding the parties called this morning at 11 a. m. and lasting 2 hours as follows:

"Briand today presented to the Council the informal suggestions made yesterday by Yoshizawa containing three points: (1) Direct negotiations between Japan and China for the safety of Japanese nationals in the light of the five points; (2) the despatch of a commission named by the League to consider the whole situation between Japan and China especially in Manchuria and as regards the boycott; and (3) the keeping of the League informed of details.

Briand suggested that the best course would be to learn from the Japanese exactly what they meant by treaty rights and from the Chinese exactly what they are willing to give.

Thereupon a decided difference of approach developed amongst the various members of the Council. Briand was evidently groping around to find the smallest possible opportunity for starting negotiations which he hoped might gradually be built up into a general ac-

⁴⁴ The same message was sent as Department's No. 116 to the Consul General at Nanking, for the Minister in China, and as No. 234 to the Ambassador in Japan.

ceptance agreement. He recalled that while there were undoubtedly hostilities, still war had been averted by the League and cited the fact that once before in the dispute between Poland and Lithuania, Lithuania had declared a state of war during whole year's time before final solution was reached. He urged that the League exhaust every possible avenue of conciliation and then if in the end it failed he for his part was willing as he twice reiterated to go 'absolutely to the limit'. The other approach was stated by Simon who began 'While we are sitting in private session here events are moving in Manchuria which may be stronger than words.' The press speaks of 'positive action' by Japan; it is well known that an ultimatum has been delivered to General Ma. While the Council is justified in taking time to get word from Yoshizawa it must envisage the possibilities of very serious consequences. He was not at all contented as to the scope of the Japanese proposals; for instance whether a commitment could be sent irrespective of agreement on the first point; nor had the Council ever been able to get from Japan a clear idea of what the fifth point meant. He stressed the fact that his Government was very anxious to support the League. If he had to choose on the one hand between long and uncertain negotiations which might or might not come to a result but which would give the appearance of the abandonment of the League's principles of solution and on the other going squarely and openly on the records to support the principles of the League even if unsuccessful he would for his part choose the latter. He hesitated about getting involved step by step in endless discussions which might weaken all that the League stands for.

A detailed discussion then ensued among various other members of the Council on Briand's proposal of inviting Japan and China to come before them this afternoon to explain their views. It was arranged to see Mr. Yoshizawa at 4 o'clock and Dr. Sze at 5."

[Dawes]
SHAW

793.94/2764 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 18, 1931—midnight.
[Received November 19—4:23 a. m.]

764. From Ambassador Dawes: Referring Embassy's 763, November 18, 9 p. m., the Committee of Twelve met privately this afternoon questioning Yoshizawa for nearly 2 hours and Sze for an hour with discouraging results. Sweetser reports proceeding as follows:

"Yoshizawa said that Japan considered points 1, 2, 3 and 4 of the October 24 resolution as quite insufficient and unprecise. The second point, for instance, of 'hostile agitation' was very vague and far removed from what his Government had in mind. Similarly, Japan's request for effective protection throughout Manchuria for all peaceful occupations was not at all met. Japan attaches great importance to this, particularly agricultural exploitation by Koreans, and the failure to cover it is a cause of deep discontent. Point 4 was also insufficient,

though no reason was given, while point 5 does not give proper recognition of railroad questions.

Mr. Yoshizawa then introduced a new thought to the effect that the first four points of the October 24th resolution may be said to be only headings for the first four Japanese fundamental points and that when they are actually negotiated Japan would want to go into far greater detail. Hence, the expressions used in the resolution were wholly insufficient.

Taking up Briand's questions, he said that as regards the point wherein Dr. Sze's letter raised doubt as to whether China intended to question the validity of certain treaties, Japan could not for a minute allow treaties signed and ratified to be questioned. China had even sought to bring up at Washington the treaty embodying the 21 demands which Mr. Hughes had recognized.

As regards the second question as to whether Japan will be content with a general declaration relative to respect for treaties or would desire a declaration enumerating particular treaties, he said that she would not be content with such a general declaration even if it contained details, as China does not respect treaties, but Japan would insist on a new treaty reaffirming the old treaties.

As regards the third question as to what degree questions of security are implied in the treaties specially foreseen by him, he said that Japan was interested not only in the security of her people but also in the safety of property, though he did not expect many details would be here involved.

Briand then began a cross-questioning of Mr. Yoshizawa to know whether evacuation would begin upon the fixing of a program of negotiation and the naming of the negotiators, or only after the negotiations had been completed and an accord reached. Mr. Yoshizawa in his first reply said that Japan intended to complete evacuation only when she had arrived at an accord with China on these points. Bitter experience had shown that fair documents might be signed but would not be fulfilled. Japan did not intend to suffer again in this way. She must have agreement first.

Briand rephrased his question three different times in an evident attempt to get the Japanese to agree on earlier evacuation. He thought, for instance, that when the program of negotiation had been settled and the mediators named it might not be necessary to wait until complete success was achieved; otherwise, the delay might be very long. Again, he pointed out that perhaps when China had shown its good will and a program of negotiations been drafted Japan's conditions might be considered fulfilled. Mr. Yoshizawa, however, remained firm; Japan did not wish to complete evacuation until she had completed the accord and had been fully assured of China's good faith. This accord, however, was one of principle, not of detail, and ought not to take long. Similarly, troops could be withdrawn from certain places where order was established. Japan did not intend to occupy Manchuria permanently but felt that security was possible only after agreement on the fundamental points.

After one more attempt by Briand, and a statement by Scialoja ⁴⁴ that these points were too difficult to handle orally across different

⁴⁴ Italian representative at League of Nations Council meeting.

languages, the Japanese agreed to put their understanding of this point into written form.

Dr. Sze then came before the committee. He began with a prefatory statement that China was not willing to pay out a price for Japan's agreement to withdraw her troops. To do so would be to condone a flagrant violation of the Covenant and the Kellogg Pact. China could not be expected to pay for rights guaranteed by treaty. Briand here explained that the Council had no such idea in mind but had asked this question simply in view of the doubt raised by Japan.

Sze then repeated that China felt herself bound, as with all members of the League, to a scrupulous respect for treaties. In addition she was willing to have arbitration on any doubtful points as promptly as possible under article 13 of the Covenant. He recalled that at Washington the parties, except for China, had agreed to file their treaty agreements. If Japan should bring up a treaty which is out of date or invalid, China thought the proper course was to arbitrate. A general discussion of treaties at this moment might take a long time; no one knew what treaties Japan had in mind. He thereupon read the text of the Washington provisions for registration of all commitments.⁴⁶

Sze laid stress upon the point that China is bound as regards Manchuria, not only to Japan but to other nations. Under the Nine-Power Treaty, for instance, she has obligated herself to other states to maintain the Open Door and equal commercial opportunity. If there is any difference of interpretation China was prepared to arbitrate.

If, however, Japan has in mind the 21 demands China is not going to resign them to buy evacuation. Since their day, China has become bound by the Washington Treaty. Sze pointed out that this statement contained nothing new but was simply a reaffirmation of what he had said at Washington.

The question as to treaties, he said, is not one of China respecting her obligations, but Japan. The latter, he claimed, had already violated the Covenant, the Kellogg Pact and the Nine-Power Treaty. Japan had promised 2 months ago to withdraw; she had not done so; she was always pressing new demands; one wondered when she was going to stop. Thereupon, in reply to a question, he gave the history of the 21 demands, saying they had been presented secretly, with a 48-hour ultimatum, signed under military pressure, never ratified, and since repeatedly protested.

Sze took the occasion to inform the Council that he was constantly receiving urgent cables from China. Since Monday the Japanese troops north of the Nonni had greatly increased, with artillery, tanks, aviation and cavalry. Something must be done to stop the bloodshed. If there were difficulties under article 11 he gave notice that he would take the opportunity of the first public meeting to invoke articles 10, 12, 15 and, if necessary, 16. He felt that the time had come to speak plainly; that Japan had not fulfilled any of her agreements as to the withdrawal of troops, withdrawal of bombing planes, not penetrating north of the Nonni, and the like.

⁴⁶ See *Foreign Relations*, 1922, vol. 1, p. 355.

The next meeting is fixed for 11 o'clock tomorrow morning, with the probability of having before it Japan's written statement of her views of the relation of the evacuation to the negotiation of the accord on the fundamental points. An atmosphere of gravity settled over the Council at the end, with the feeling that there was very little prospect now of settlement by mediation. Those who have been pressing for a public affirmation of principles, as the British and German representatives this morning, and who have, up until now, held back to give Briand full chance of negotiation, are likely now to press their views vigorously."

[Dawes]
SHAW

793.94/2763: Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 18, 1931—2 p. m. [*midnight*.]

[Received November 19—4: 42 a. m.]

765. From Ambassador Dawes: Simon leaves early tomorrow morning to attend a London Cabinet meeting but expects to return shortly to Paris. Late tonight I had a conversation with him on the critical situation. I informed him that Matsudaira considered the Japanese internal situation as beyond the Government's control, and Simon commented that he had a strictly confidential but independent intimation of the possibility of a *coup* in Japan.

When Yoshizawa went before the Council this afternoon, he did not inform them of the sending to his Government of a second recommendation and of his hope of obtaining authority to present the matter to the League (as had been expected by Matsudaira and as I reported in telegram 762, November 18, 8 p. m.), but Yoshizawa instead reaffirmed in more extravagant fashion all the objectionable old proposals of Japan (for Sweetser's account of the proceedings in this Council meeting, see Embassy's 764, November 18, midnight).

The League now is acting under article 11 of the Covenant. It is anticipated that the League will be asked soon, if not tomorrow, by China to proceed under articles 10, 12, 15, and, if necessary, 16. Parenthetically, Sze has informed me that he will call at 10:30 a. m. tomorrow, and this may be in connection with the above. Should China make such a request, Simon feels the League should proceed under article 15 to the appointment of a commission to report on the general situation and then, if this action is ineffective, should proceed under article 16. He is inclined to think, in other words, that in this situation the League should go to the limit of its powers irrespective of

whether the probabilities favor success or not. It would tend at least to mobilize the world's moral forces in a strong way in condemnation of Japan's procedure, always provided the same attitude is concurrently and independently assumed by the United States Government. Simon inquires whether, in the event of a commission of League members being sent under article 15 to report on the situation, the United States Government would be inclined to appoint either a member or an associate investigator. Simon expressed a wish for a continuing exchange of ideas between the British and American Governments, designed to supplement each other's attitudes in the most effective way, since our treaty interests and relation generally to the situation are the same. [Dawes.]

SHAW

793.94/2892

*Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation Between the Secretary of State and the Chinese Chargé (Yen)*⁴⁷

[WASHINGTON,] November 19, 1931.

Dr. Yen called and presented to the Secretary his credentials.

The conversation turned on the subject of the Manchuria situation. In the course thereof Dr. Yen stated that various Chinese official leaders placed special reliance on the Nine Powers Treaty. He said that W. W. Yen ⁴⁸ in particular has stressed to him the importance of that Treaty. He inquired what would be the attitude of the American Government if the question of invoking that Treaty were raised.

The Secretary of State replied that we had had most if not all of various possibilities in mind; that at the time when the trouble began the Council of the League was in session, China had appealed to the Council, the Council had taken full "jurisdiction", and the American Government had both acted independently and given its moral support to the action taken by the League. For practical purposes there had been and there is going on a conference of the Powers. For that reason there had arisen so far no need for calling a separate and additional conference. Two conferences sitting at the same time to deal with the same question would mean weakness rather than strength. As to what would be our position if the question of invoking the Nine Powers Treaty were raised, it was our consistent practice to keep in mind the saying: "Don't cross a bridge until you come to the river". He felt that the representatives of the various Powers were very ac-

⁴⁷ Accompanying the new Chinese Chargé, Dr. Hawking Yen, was the First Secretary of the Chinese Legation, Mr. Yu.

⁴⁸ Appointed Chinese Minister to the United States.

tively struggling with the Manchuria problem at Paris just now and that we should concentrate our attention on their efforts.

S[^TTANLEY] K. H[^ORNBECK]

70654/2625

*The Chinese Ministry of Foreign Affairs to Nanking to the Chinese Legation*⁴⁰

[NANKING.] November 19, 1931.

A fierce attack of our yesterday morning by a large Japanese army on General Ma's troops north of Talsing, Heilungkiang, the Japanese using heavy artillery, tanks and aeroplanes. Towards night General Ma's men retreated northward Angangchi station, ten miles from Tsitsihar, fighting still continuing. The Japanese determination to seize Tsitsihar is all covered in handbills dropped from the Japanese planes flying over the provincial capital.

70654/2781: Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, November 19, 1931—9 a. m.

[Received 4:50 p. m.]

I have received the following manifesto from the Ministry of Foreign Affairs with the request that it was [be?] transmitted to the American Government.

"Since the forcible occupation of various places in the North Eastern Provinces, the Japanese military authority [*authorities*] have been frequently instigating or utilizing bandits, rebels and other undesirable characters to disturb local peace and order as well as organized [*to organize*] governments [*which are*] usurping administrative powers under the protection of [*or*] duress of Japanese troops.

It has been lately reported that, during the recent disturbance in Tientsin created by insurgent rioters who made use of the Japanese Concession as their base of operations, the defunct emperor Pu-yi of the former Manchu Dynasty was kidnapped and escorted by the Japanese from the said concession to Shenyang for the establishment of a bogus government with himself proclaimed as the emperor.

The National Government has already declared to the League of Nations and the governments of friendly powers that the Chinese Government and people will not recognize any illegitimate institution[s] established in subversion of China's administrative integrity in those places of the North Eastern Provinces which remain under the occupation of Japanese troops. In the event that the establish-

⁴⁰ Copy of telegram handed by the Chinese Chargé to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on November 19, 1931.

ment of Pu-yi's bogus government is confirmed, the National Government will regard such a government as a seditionist institution and at the same time as an auxiliary organ of the Japanese Government in disguise, while all the acts of such a government which are necessarily illegal will be repudiated by the National Government and the entire responsibility therefore will be laid on the shoulders of the Japanese Government. Nanking, November 17th, 1931."

JOHNSON

793.94/2775: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 19, 1931—10 a. m.

[Received 10:40 a. m.⁵⁰]

963. Following from Harbin:

"November 18, noon. 1. According to all reports, yesterday passed without any serious attacks by Japanese or Chinese troops on the Nonni River front.

2. Ohashi informed me last night that Chinese representatives of General Ma had informed local representatives of Honjo that his written reply to the Japanese ultimatum of November 15th would not be delivered but that he would comply with the Japanese Consulate demands on the condition that the Japanese troops would simultaneously withdraw with the Chinese, that the Heilungkiang Provincial authorities reserve the right to keep troops south of the Chinese Eastern Railway line in the case of bandit activities there and that in case normal traffic would be restored on the Taoang Railway, the troops of General Chang Hai-peng would not be allowed to use the zone. Ohashi reminds me that this is construed by the Japanese side to be a refusal to accept the terms of the ultimatum and added that on November 16th the Japanese War Office gave out in Tokyo a statement to the effect that it was dissatisfied with Ma's attitude and that the threatening attitude of his troops might make it necessary for the Japanese to clear them away from Tsitsihar and vicinity as a matter of safety. Local Chinese officials confirm the failure of Ma to give a written answer to the ultimatum and attentions, that civil administrator Chang⁵¹ (who is suspected of being pro-Japanese) and Ma could not agree until late last night upon the wording of the written reply which Chinese officials state will arrive in Harbin this morning. Japanese side becoming impatient in regard to dilatory talk of Chinese, who are playing for time.

3. During the last few days weather has become very cold and it is expected that in a few days Nonni River and swampy land nearby will freeze over solid. This would facilitate crossing the river and transport on land, but handicap fighting of soldiers of both sides, but more especially the Japanese who can only be supplied via Taonan.

4. Local Commissioner of Foreign Affairs has confirmed to this office the press report that the provincial government for Kirin Prov-

⁵⁰ Telegram in three sections.

⁵¹ Gen. Chang Ching-hui.

ince was established on November 11th at Pinhsien, 30 miles east of Harbin and a short distance south of the Sungari River with Cheng Jun, former chief of the Bureau of Civil Affairs at Kirin, appointed as Acting Chairman during the absence of Chang Tso-hsiang. All the laws and orders issued by the Central Government and the Kirin Provincial Government before September 21st are still in force. Kirin ex-officials did not take this step formerly because they feared bombing by Japanese airplanes. Evidently Ma's resistance to Japanese has encouraged them in this step.

5. Following is a translation of radiogram sent by General Ma at Tsitsihar to General Chiang Kai-shek at Nanking handed to this Consulate General by local Chinese radio station:

'November 18, 10 a. m. The Japanese troops started general offensive at 4 o'clock today with heavy artillery and 6 aeroplanes dropping bombs. Fighting has been very serious. Please appeal to the League of Nations to have the hostilities stopped.'

Ohashi has just informed me that he believes this report to be true and that situation at Nonni front is serious."

Repeated to Nanking.

For the Minister:

ENGERT

793.94/27353

*Memorandum of Trans-Atlantic Telephone Conversation*⁵²

SECRETARY: Hello Dawes. Yes, I can hear you all right. I just this minute received your telegram asking me to call you.⁵³

DAWES: Did you get my telegram after I saw Sir John Simon?

SECRETARY: I got your telegrams 762 and 763 and they give me the story you got from Matsudaira and it gives me the substance of what took place in the meeting of the League Council this morning.

DAWES: I have your 569.

SECRETARY: What is that?

DAWES: I want to give you my ideas, which I think are your ideas, conveyed in part of your telegram No. 569. The situation has developed so that it seems to me absolutely essential that this Government should maintain its position along the lines of your idea in 569 and clear up this situation. It is impossible for the League to clear it up. The League is at present working on opposing views.

SECRETARY: You gave me those opposing views in your 763.

DAWES: It is perfectly evident that our Government's influence comes from that independent stand and it is to its interest to have it still

⁵² Between Mr. Stimson in Washington and General Dawes in Paris, November 19, 1931, 11 a. m.; omissions indicated throughout this memorandum evidently signify poor telephone connection.

⁵³ Telegram not printed.

maintained. Without any question it is a big help. The League people here are now very anxious to call me in over there and the situation, as it has been submitted to me, is that the League doesn't know all that I know because Sze has come to me with the position he is willing to take. The League is discussing much the same proposition but there is some difference of opinion and in some way I think that you have got to make a statement for them in which you outline, as you say, that this situation which Japan has created is not going to change for the better but only get worse so you are protecting yourself in the matter of the public opinion—in the matter of the United States interceding in the matter and maintaining also in the public mind, that fact that you are maintaining independence of judgment of action. If I should go over to the League in any capacity, we then will be in the position of playing up to the League and agreeing with it and the League is going to lead us nowhere. They are going to bring pressure upon me. I have an appointment to see Briand at 6:30 tonight and what he is going to do is to invite me over there. Briand does not know that Sze came to me with a proposition which they propose putting to the League regarding invoking Article 11; they propose to then start action under Article 15 and that action being proposed, they will tell the League to invite me.

SECRETARY: That is just the time you ought not to be there because that means that they are going to take up the question of sanctions.

DAWES: Yes, I agree. . . . would do nothing except that they would come to us for our advice.

SECRETARY: I will tell you for your confidential guidance that in case the League should take up the proposal of an embargo by the League, I have no doubt that this Government would do its best not to interfere with that embargo but I don't want to have it announced beforehand. I don't want to have that announced until after the League has done its own action and I doubt whether it is advisable for the League to go on with an embargo but in case they should—

DAWES: I am going to read you a statement. It is evident to me that for your own protection and for the protection of our independent position it is desirous for you to make some statement of the case up to this time and then say what you will about the League—about the United States support of the policies of the League and the force of public opinion so far as it is not inconsistent with our treaty rights or something of that sort. But then make it perfectly clear that your action will be taken in cooperation with the League if their action is conducive in your judgment to settlement. You are still independent to make a decision as to what extent you are willing to cooperate with the other Governments against Japan; that if I go over there the United States just falls in with the League program and that leaves the

enemies of the whole situation in the United States and elsewhere to count us out in their calculations. What I want to suggest is that you make a statement—I think you should get out a statement. I think that if the request for me to come over is given, in which Briand is going to join, we should have a statement as to what our action is going to be. If we are going to make such a statement, make a statement first and if they get the statement first, then we would be looked upon more or less and yet you can make your statement so that we sustain fully the general policies of the League but do not confine ourselves to the program necessarily of the League. They are going to get into such a mess. They have got to wait for this decision which they think important and the United States can not afford to wait to have this decision applied in effect by the League. In our relations as one of the League, instead of the position that we will take action absolutely independent of the League but cooperating with it, seems to be reasonably conducive to the interests of the situation for peace.

SECRETARY: Let me say something to you.

DAWES: I will read you the proposition.

SECRETARY: What proposition is this?

DAWES: I am reading you the proceedings of the Council as taken in the sessions of the League held this afternoon. It was a private meeting of twelve members of the Council. Briand reported that the two parties named are exceedingly opposed and that it might be a loss of time to make further efforts. Japan believes that there could be no evacuation until there was an accord. The Chinese refuse to pay for evacuation at a high price. It seems impossible to still hope for conciliation. Should they go into the question of the time and conditions . . . could they relate to one line or the other. You should make a statement of the situation. Lord Cecil is not here—he is in London. The Council was proceeding toward unanimity and no unanimity has prevailed since September 30th. There now seems absolutely . . . discuss.

SECRETARY: If you lower your voice I can hear you better.

DAWES: If there was a public meeting where both sides could state their views . . . world opinion had a right to be informed. Thereafter a small committee was appointed to draft a report for the next public session and bring in all that had been done under Article 11. This article is mediatory. The Council can act only with agreement of the parties. Article 11 was then exhausted. It might be best to explain the facts and to consider what steps would next be taken. General Dawes asked whether any contact had been made with him.

SECRETARY: Who made this question?

DAWES: The Chairman. Briand said that General Dawes had assured him at the outset that they had thought it best, as he had said in

the first public meeting, that the United States would continue its cooperation with the League for the preservation of peace. He had explained that he had no desire to take part in the meetings but that if at a given moment the Council wished him to take part, he would be glad to consider the suggestion. That up to now the meetings had been undetermined and Briand had not considered it necessary to invite him to come. Now, however, the Council believes that the moment had arrived when he could be invited before it—even today. In addition to the statement, he had seen a good deal in the press particularly the American press in connection with the nine power treaty which permits of confirmation should the Council consider this also. But in any case agreed that he might see General Dawes today. The members of the Council received the Japanese statement as to the relation between evacuation and the signing of an accord. The Council would certainly have in mind the commission but also promises the League that our efforts in invoking that article . . . If the Council could get a definite promise but it was not sure that Dr. Sze would consent to this project. The situation is getting worse. He then therefore went to see General Dawes at once. Japanese reply . . . and try to add to it and if he considered it, China is willing to continue under Article 11. Von Burro [*Bülow*]⁵⁴ agreed with this viewpoint. He thought it wise that they did not take action at all—every last avenue was destroyed. The Secretary General brought out that should the American Government agree to General Dawes's presence there they should consider whether that should take place in the formal council or at the private discussions. The latter presence, however, would be less important.

I will now read you what Dr. Sze brought in here this morning. He is the Chinese member.

"Confirming my conversation with you of this morning, I beg to state that my suggestions are as follows:

"First: Increasing military activities from November 16; heavy fighting north of the Nonni River. This was understood to have been made in Washington and London and created a new situation. This situation was made clear last night when Yoshizawa told the Council that it is insisting upon . . . to China and direct negotiation on military occupation. This policy is an open violation of Japan's treaty obligations and means the closing up of the Washington Nine Power Treaty and shuts the open-door in China which is a flat defiance of America's traditional policy in Japan.

"Two: Mr. Stimson's note of October 12 to the Council declares that the United States will bring forward the Nine Power Treaty and the Pact of Paris 'if the time should come when it would seem advisable.'

"Three: I am of the opinion that this time has now come. I am proposing to suggest to the Council that it appoint a committee to study

⁵⁴ German representative at League of Nations Council meeting.

the whole situation in the light of the Nine Power Treaty and the Kellogg Pact. The United States should be invited to join in this committee. In this way it would seem that the United States would be able to act effectively and concurrently with the members of the League and at the same time maintain independence of action. There seems to be some misunderstanding on the part of the members of the Council as to the attitude of the United States with the result that the Council has not taken . . . possibility if the main purpose to these the United States would agree. This illustrates the urgent need of facilities . . .”

That is Sze's memorandum. He is perfectly right. The Council can not take any position at all until they know what the position of the United States is. If we go over there and join them——

SECRETARY: It strikes me that the way to meet that situation is not by an announcement by us on the line that you spoke of because I have made many such announcements. It is perfectly clear here. I have again and again said that we would follow the general objective of the League, reserving our independence of judgment of action. I can say that again but it is no more than I have said several times. I should say off-hand that the way for you to meet the problem that is now put up to you about this invitation to go and meet with the League, would be to have a conference, not with the League, but somewhere else, if necessary in your rooms, with the same gentlemen representing the different countries where you could talk just as freely. That would make the necessary stage difference between going in to their meeting of the League and in that you have got to keep separate. The thing I don't want to have played up here is that you take any part in the League action particularly now that they are reaching the point of discussing sanctions.

DAWES: That is perfectly right.

SECRETARY: It seems to me you ought to be able to reach that point of common counsel in a different way. It is merely a matter of stage setting, so to speak, something that will prevent the newspapers from misrepresenting you. You are in Paris for the purpose of conferring with all of these men, the representatives of the Governments. The only danger comes from misrepresenting your conferences with them as a participation in the League conferences. I should think you could arrange that. This is only a suggestion—in inviting them to confer with you.

DAWES: That is the point, whether they would consider that consistent. The first thing in their mind over here is preserving the League.

SECRETARY: We have got to preserve our own position.

DAWES: I am sure if I can't go over there as one man to meet twelve they as twelve would not come over to meet me.

SECRETARY: Then try some neutral place.

DAWES: That would create a wrong impression again.

SECRETARY: I don't want to affront their dignity but think it over and discuss informally some way of choosing a neutral place which would avoid the misunderstanding. I think you must insist on this.

DAWES: I do not think—

SECRETARY: They were the ones who made the trouble at Geneva and they must therefore not repeat it now. I should think you could find some way of conferring and even discussing it.

DAWES: They have been conferring with me. I have seen Briand a number of times. I have seen Simon. Matsudaira comes here. Cecil comes here but the trouble is that the question in their minds, which seems more important than the settlement of this dispute, is to preserve the dignity of the League and clear up over the World the indication that the United States should now come in behind the League.

SECRETARY: You are not there to do that.

DAWES: I will have to tell Briand so.

SECRETARY: I am afraid you will if they insist on it. You are there to confer with the representatives of those different nations on the situation which is now existing in Manchuria and they have got to meet us on a basis which will avoid misunderstanding.

DAWES: Now that is one thing. When the United States Government does that it means something. I think you ought to say that and say that you have instructed me. Say that I am here for a conference with the members of the League individually just as I said in my statement and that you have instructed me not to attend those meetings, in order not to have that action misconstrued as it might be and that we reserve the right of independent decisions. It could be framed in these words.

SECRETARY: I can try that if you think it will help you.

DAWES: It will be looked . . . after what I said to Briand.

SECRETARY: I don't want to give it out in any given instruction to you in the form of a communication to the press. I think rather to send it as a telegram to you; then you can give it out if you want to.

DAWES: That won't help me any. I might say . . . put them off for they all come around and they all understand that I am not going to say anything at all. This evening I am going to see Briand. Make the words read that I construe the attitude of our Government as that—and myself decided that—the attitude of our Government was to cooperate in every possible way with the League but we reserve the right to take full rights of action independently upon our judgment as to what constitutes our own interest in the situation.

SECRETARY: I can read you a statement I gave out the last time. I can give it from memory. I am sending for it now.

DAWES: They used your words. You have said that the United States was not attending the meeting itself because the United States is not ready to decide to what extent it can give cooperation with the other powers against Japan. Those are your exact words.

SECRETARY: I don't remember that.

DAWES: What is the decision of the United States as to the extent to which it will cooperate with the other powers and that statement of yours makes it more impossible and difficult for us to go there because it is going to be said that we have made a decision and they are going to want to know what it is if we have made a decision to cooperate with the League and if I go it will put the Government in a wrong position. I haven't thought of any formal words. I think probably—just as you say—that it is better for me to make some statement and I don't want to make any statement until I have decided upon the words with you. It is a very delicate thing. We don't want to offend the sensibilities of the League, yet we don't want to say something that will destroy our present position of independence.

SECRETARY: This is what I said so far as I can recollect it. This was the shortest statement I made. It covered the general points about which you are talking. I said the attitude of this Government is unchanged; we are acting independently and reserving full independence of judgment as to each step to be taken. We are endeavoring to support the general objective of the League, namely, the preservation of peace in Manchuria.

DAWES: Here I have a statement the way it came over. Secretary Stimson gave an emphatic denial that the Japanese Ambassador had been given assurances that the United States is not following the League of Nations . . . decided upon the economic boycott of Japan. He added that if General Dawes had given out at the Council of the League . . . the reason was that the United States is not ready to make a decision as to how far it is willing to go in assisting against Japan.

SECRETARY: That is not my phrase. No, that is something somebody else has made up. I do not remember ever using that last phrase that you have just quoted "that we have not yet made up our minds". I have never said anything like that. My position has always been that the United States can not commit itself beforehand to adopt a policy of the League before that policy has been adopted.

DAWES: That is right.

SECRETARY: That is what I mean when I say that we reserve our independence of judgment until the time of action takes place.

DAWES: That is right. The part I can say after my talk with Briand . . . See if I can not take that myself as an instruction from the State Department and that in my judgment I would because of this conception of the attitude of the United States.

SECRETARY: I do not quite get that last.

DAWES: Mr. Dawes said in his statement, I am to call on Briand at 6:30; that he had discussed with M. Briand the matter of his attendance at these meetings of the Council of the League. Ambassador Dawes said that he had informed M. Briand that the United States . . . That it was his clear understanding that this Government reserved independence of judgment until the time of action by the League. He said that his presence here has enabled both members of the League and himself to have every opportunity for the discussion of such matters as were of mutual concern to the League and to the United States. He stated also that in order that there might be no public misconception of this position of the Government, that he had decided that it was not best for him to attend the meetings of the League.

SECRETARY: Let me call you up again in a little while. In the meantime I will try to draw up something here. I want to try a hand at something either as a statement or an instruction.

DAWES: You have a statement in mind.

SECRETARY: I have that clearly in mind. Can you wait long enough for me to ask you a question?

DAWES: Matsudaira was in here just a little while ago to say that he had a telegram from his Government suggesting that the League appoint a commission to study the *status quo* of the situation. He is very anxious that the League appoint a committee under Article 15. He is anxious to have his government make that recommendation.

SECRETARY: He is anxious what?

DAWES: He has got no idea at all whether his government will let him do that and I don't think there is any chance of there [*their*] doing it.

SECRETARY: Here is the situation as we see it. Beginning with September 18th there was a government in Manchuria which was not a very good government but it was the regular acknowledged government by China; namely, the government of the young Marshal Chang Hsueh-Liang. Beginning on that day the Japanese Army has deliberately set out to destroy that government and it has done so very effectually. It has attacked it wherever it had forces regardless of the railway zone or the treaty limits for the Japanese forces, and it has culminated its action by going way up into northern Manchuria and attacking Tsitsihar just for the purpose of destroying the last remaining force of Marshal Chang. All of the talk about protect-

ing nationals has been shown to be mere bunk. So far as the army is concerned it has been an intelligent and deliberate drive to destroy the existing Chinese government of Manchuria. That can not now be effectively denied and that act amounts to a complete violation of the Kellogg-Briand Pact and a complete violation of the Nine-Power Pact. That is our view today. That is the view which we have on top of this situation. You report from Matsudaira, and what Matsudaira says is confirmed so far as it goes by what we hear from Tokyo, that the army is entirely out of hand and is running the show in Japan. That makes a situation where any results of future discussion by the League seems very hopeless. It does not look as if there was any reasonable chance of a settlement, in the near future anyhow. The only thing that has been suggested by the President, in a talk I had with him to-day, which might crystallize the issue and make it affirmative would be if China would appoint some new viceroy or governor for Manchuria in the place of Marshal Chang. I see many objections and impossibilities to that because I do not think they could get one and it would make a row between China and Marshal Chang, who still retains some power, but I wanted you to know that that was in the President's head as the only solution he could see for a constructive solution instead of a purely negative one. If such a thing could be done, if China could be induced to select a new ruler of Manchuria and then Japan afterwards endorse it, it might be possible to work a constructive solution out of it, but I do not myself see any chance of that.

DAWES: I do not, because Sze says that public sentiment is very greatly aroused and they can not afford to make any concessions.

SECRETARY: That being so, and going back to the original position, it is rather our opinion now that it would be worse for the world, for us to do anything which would condone what Japan has done than it is to stand off and say in some way or other and by some act or other that we disapprove of that action. This is confidential for you. We do not see how we can do anything more ourselves as a government than to announce our disapproval and to announce that we will not recognize any treaties which may be forced by Japan under the pressure of military occupation. We do not ourselves believe in the enforcement of any embargo by our own Government, although we would not probably in any way allow our Government to interfere through the fleet with any embargo by anyone else. We believe an embargo is a step to war and if an embargo is decided upon by the League, it would be very likely for that embargo to lead to war.

DAWES: That is what Sze wants to do.

SECRETARY: Yes Sze would like very much to get all of the nations of the world in war with Japan.

DAWES: Exactly.

SECRETARY: We have no sympathy with that and we do not intend to get into war with Japan.

DAWES: Simon's position was that he wants to go to the limit.

SECRETARY: We do not want to discourage them from going ahead with that if they want to, but we do not want in any way to tie ourselves up to it because our principles are entirely different. That is the line which you must follow. We will not do anything to discourage their taking action under Article[s] 15 and 16 of the League if they want to. Confidentially, though you must not say this beforehand, I do not anticipate that this Government would allow its fleet to do anything to interfere with such an embargo if it was imposed. In other words, if that was done we would stand aside and not interfere with it and I think very likely a good many of our people would sympathize with that embargo and it would reduce the trade of Japan with this country. That would be entirely unofficial—not an act of government. So far as the Government is concerned, the only act we see we could do would be to publish the papers and the correspondence, announce our disapproval of the action of Japan, possibly calling it a violation of these treaties and then announce as we did in 1915 that we would not recognize any treaties that were created under military force.

DAWES: It is very evident that if the League proceeds under Article 16 that your position is going to be a little different from the other members of the League.

SECRETARY: It will be entirely different and for that reason I do not want to have you sit in the League while they are discussing those problems.

DAWES: If I say that I have been instructed not to sit in the meetings . . . If I go and sit with the League it would create the impression that we are going to follow the League all the way through. Therefore, I think that there is a better way; that I had better put this statement to Briand and to the press and so word it that it states your position freely, as you suggested, yet indicates that our . . . although you have different authority, it was the best of my judgment as to whether I should go over to the meetings and explain. But it is not necessary. It is useless anyway as compared with just what I could do outside. If I could give that impression, that will carry out the principal statement and everybody would recognize that you do not want to take these steps until you know the action of the League. There would be no harm done to the League or to anybody else if we do not go. I would like to sit down for a half hour and think over something of that sort and would like to have you write out something

at the same time but the one trouble is that I have to see Briand at 6:30 and it is now 5:30.

SECRETARY: You have my statement of my position already so that if it becomes necessary for you to use it you can use it, namely, by saying that we have been trying to support the general objectives of the League while we still reserve our independence of action and of judgment.

DAWES: I have this statement of yours here. I believe I can have something ready in ten or fifteen minutes or so.

SECRETARY: We will try to call you back. I want to be able to try something myself.

DAWES: The only trouble is that it takes so long to put the call through and I have to see Briand at half past six.

SECRETARY: Make what arrangements you can with the telephone company. Can't you postpone your talk with Briand if necessary. We will be through in a few minutes. We will call you again as quickly as we can, but I will have to speak to the President myself. Have Shaw take the message and follow you over there if you have to go and give it to you.

DAWES: I can postpone it with Briand.

SECRETARY: Postpone it with him. That is best.

793.94/2758: Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

[Paraphrase]

WASHINGTON, November 19, 1931—3 p. m.

235. Dawes in Paris has been confidentially informed by Matsudaira of a very dangerous condition in Japan so far as existing authority goes. It is intimated by him that this concerns the direct control by those heading a plot against the Japanese Government over the command at the front, and, as a result, one of the most critical internal conditions in Japanese history has been brought about. In other words, it is feared by Matsudaira that for the moment at least the power to determine policy is beyond the Government's control.

You should not indicate the source of this information in any way, but I trust you can check it and send me very promptly your estimate of the current situation.

Recently there was a newspaper report concerning a plot to kill Baron Shidehara and others. There has been no confirmation of this. You will please keep the Department quickly informed regarding all such matters.

STIMSON

793.94/27853

*Memorandum of Trans-Atlantic Telephone Conversation*⁵⁵

SECRETARY: Hello, is that you General Dawes? General, I have cabled you some instructions on that subject of what you should do in regard to these meetings in a form which you can discuss with M. Briand.⁵⁶ I have also telegraphed in a separate cable a suggested press statement that you might give out, either alone or as a joint statement with Briand.⁵⁷ That last, however, is for your full discretion. We are not anxious here for any press statement.

DAWES: You have cabled another press statement which either I am to give out alone or with Briand?

SECRETARY: Yes, just as you like. You need not give it out at all unless you want to but the instructions which I sent you are of a nature for you to show to Briand in confidence just to make clear to him exactly our position. They do not seem to understand it quite as well as I would like to have them so I have sent that to you. Let me go on. I have talked this matter over with the President and he fully concurs with everything that I said to you about our position. As I told you our own attitude is limited by the treaties to which we are parties. Those treaties provide for only the sanction of public opinion and not for any sanctions by economic or military forces and those will be the guide of our own Government.

DAWES: I don't get that last sentence.

SECRETARY: Those principles will guide our action as a government but if the others choose to go ahead under the League with their particular sanctions, we shall, of course, do nothing to oppose it or interfere with it.

DAWES: That is what you are expressing in this confidential statement for Briand—

SECRETARY: I am stating it for you and you can use your discretion in letting them know what our position is. But I don't want to put that in writing. If the League goes ahead, what we shall do is to publish, of course, our notes and make our position perfectly clear after the League has acted—immediately after.

DAWES: Do I understand that you are publishing this note you are sending to me after the League has taken its action.

SECRETARY: No. No. I mean the notes between the United States and Japan.

DAWES: I understand.

⁵⁵ Between Mr. Stimson in Washington and General Dawes in Paris, November 19, 1931, 3:45 p. m.; omissions in this memorandum are indicated in the original and apparently show poor telephone reception.

⁵⁶ See telegram No. 575, November 19, 5 p. m., to the Chargé in France, p. 504.

⁵⁷ See telegram No. 576, November 19, 6 p. m., to the Chargé in France, p. 505.

SECRETARY: I mean for two months I have been keeping everything quiet in an effort to give the Japanese Government an opportunity to get the control of the Army. Our public opinion has not been educated on it at all but if there comes to be a show-down between the League and Japan, I shall make our position perfectly clear so that there will be no danger of it being misunderstood as not sympathetic with the League.

DAWES: Yes I understand. Mr. Secretary, let me understand are you cabling to me an instruction as to——

SECRETARY: Those instructions are merely as to sitting in the Council. I can read it to you if you like.

DAWES: That is what I mean. I want to know because of what has happened at this time. At 6:30 Sweetser came over from Briand's office and said that he was not feeling well; that he expected to sit up until I came and suggested that I come at 11:00 o'clock tomorrow instead of 6:30 o'clock tonight.

SECRETARY: I think that is much better because by that time you will have my cables and there is no need of me reading them to you now.

DAWES: At nine o'clock the newspaper men come up here and they get everything from the Council chamber. It is a secret meeting but they always get it and they know that the matter of my being invited was being discussed and they know too that Briand was to see me about that tonight. I don't want to tell them that I have instructions not to attend because that thing must not come until M. Briand has had a chance to talk to me and make a statement.

SECRETARY: You had better soft pedal it. The instructions are a sort of guide to you in your talk with Briand. They also are to constitute a record of our reasons in the future for history. The instructions are the record instructions; they are to make the record of this matter.

DAWES: This is what will happen with Briand as soon as he knows that I can not come to the meeting. He will probably make a statement as he did at the first meeting when he sent over a copy of what he was going to say and suggested to me that I make any changes I saw fit. What he said about what I said when I came here. He talked about representation and I talked about consultation and things like that.

A Japanese statement was designed to explain to the public that this form of negotiation . . . It stated that the invitation was extended a long time ago although the conditions were changed and that the United States Government had sent me here and that I felt that I could be on hand to talk independently with members of the League. It may be that he may want to make some sort of a statement to that effect.

SECRETARY: Let him make it, that is his business.

DAWES: I understand that I am not to make any public statement.

SECRETARY: We think here that it might be possible for you and Briand to make a joint statement which will show that there are no cross purposes between you but I leave that to you and you can use your discretion in that. I think that you will find the language of my suggested press statement very possibly useful to you. You can use that.

DAWES: You have made a suggestion as a press statement.

SECRETARY: I have sent you two cables to use in any way you like either as a press statement only or it could be modified into a joint statement between you and Briand.

DAWES: I understand that. It is a great relief.

SECRETARY: You will get two cables. One with the instructions which is not for publication but for use with Briand privately and the other is the suggested press statement which I spoke of.

DAWES: That is fine—that takes care of my troubles. When I went over to see Briand and told him I could not come—What he decided to do is to make a statement then about my attitude that he made at the beginning of the League and if invited I would be compelled to make a statement of this sort. He wants to get out that old statement. After you called me Mr. Sze called to see me. He is not going to do anything although he has talked to Briand. He has agreed to do just what I say about it and he is acting very nicely about it.

SECRETARY: That is Briand or Sze?

DAWES: Sze.

SECRETARY: Be careful with him.

DAWES: Matsudaira came in to see me an hour ago. He had received a telegram from the Japanese Government saying that they were sending a message to him about that recommendation. He doesn't have it yet but the recommendation is to the effect that Japan consents to the League's appointment of a commission to examine into the situation. In other words, the Japanese Government agreed that the same action can be taken now as the League proposed under Article 15.

SECRETARY: Will they stop fighting in the meanwhile?

DAWES: I don't know about that.

SECRETARY: That isn't much good unless they do that.

DAWES: I don't think they will stop fighting. That is Briand's idea. He will not consider the recommendation from Matsudaira but Matsudaira is very anxious. He says that if the League appoints a commission under Article 15, that his Government will . . . It is not going to do any good. He said he would be fearful of what would

happen. It is so unsettled. He is going to make an effort to get Matsudaira's proposal coupled with the proposition for an armistice and then carry it out. I have just had information as to the situation between Matsudaira and the League but we have nothing to do with that.

SECRETARY: I don't think anything will come of these suggestions of Matsudaira. The thing has gone too far.

DAWES: I agree with you.

SECRETARY: And what I want you to understand is that if the League goes ahead, we expect not to interfere with it in any way and so far as the marshalling of public opinion can do to back it up by the public opinion of this country and it is the view of the President that if the League should act and we should publish our papers, the support of our public opinion would be overwhelming.

DAWES: I don't get that.

SECRETARY: I say the President thinks that if the League should go ahead on this present situation and on the record of what the Japanese Army has done and we should publish what we know about it, the support of American public opinion would be overwhelming. Very strong.

DAWES: Yes. I am not going to tell the newspaper men anything at all. I will see them again after I have seen Briand.

SECRETARY: That is a good way.

793.94/2768: Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, November 19, 1931—4 p. m.

[Received November 19—9 a. m.]

Your 113, November 17, 7 p. m., to Nanking. No further action at present appears necessary in the matter of investigation into causes of trouble at Tientsin.

JOHNSON

793.94/2734: Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, November 19, 1931—4 p. m.

426. [For Engert.] Your 953, November 18, 9 a. m.

1. The portion beginning "simultaneously" is not a verbatim quotation from but is evidently based upon an article carried by the *New York Herald-Tribune* on November 17 under Washington date line November 16.

2. The Department has made no statement or commitment with regard to its attitude with reference to a boycott of Japanese exports or withdrawal of diplomatic representatives from Tokyo. With regard to the withdrawal of Japanese troops, you are informed of the Department's attitude.

3. The same article carried a sub-heading as follows: "Utmost support pledged to Geneva disavowed by State Department in conferences with Debuchi." There is no basis for this statement.

4. Inform Minister and Tokyo.

STIMSON

793.94/2713 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 19, 1931—4 p. m.

574. For Ambassador Dawes: Again Embassy's 750, November 16, 11 p. m. A more detailed reply to your request for observations on the Simon memorandum herewith:

As to paragraph 1: The Chinese already have affirmed repeatedly their willingness to respect the treaty rights of Japan; and Sze has pointed out expressly that this is one of the solemn obligations which the League Covenant imposes and each and every League member assumes. Much of the difficulty involved in present issues arises from the fact that with regard to the extent and character of these rights the respective views of the Chinese and the Japanese Governments are at variance. The contention of Japan includes agreements allegedly entered into in 1905, plus the entire series of treaties and agreements of 1915 entered into on the basis of the so-called "21 demands" of Japan. The Nanking Government may conceivably be induced to give formally a blanket assurance of respect for Japan's treaty rights in Manchuria, but, in view of the fact that the stronger party is likely under such circumstances to insist subsequently upon its own prescriptions and definitions, it is likely that the Chinese may hesitate to do this. Might not the inclusion of such an assurance in a Council resolution be all the formality which this point would require, and would this not be a measure which might prove more readily acceptable to the Chinese?

The same applies with respect to paragraph 2.

As to paragraph 3: Your observations appear absolutely pertinent. Both economic and political factors are involved in the underlying issue of the railways. This is highly complicated, and I am inclined to think that, insofar as the railway question relates to the so-called

"parallel" lines, it might advisedly be omitted at the present time from discussion of the problem. However, if the question is discussed and if a commission is suggested, should not it be specified that such commission would commence its work together with or following withdrawal of Japanese troops?

As to paragraph 4: It should be noted that the provisions of the first three paragraphs do not cover the problem of effective protection of Japanese lives and property, which is an immediate problem, the settlement of which is declared by the Japanese to be their principal objective. May it not for this reason be doubted that, even should both disputants be brought to an agreement on paragraphs 1, 2, and 3, thereupon Japan would be ready to make and carry out the proposed undertaking in paragraph 4?

STIMSON

793.94/2765a : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 19, 1931—5 p. m.

575. For Ambassador Dawes: Herewith is a brief statement of this Government's position in directing you to proceed to Paris, and you may use it, so far as you in your discretion deem it advisable, in explaining your position to Briand, as follows:

You have been directed by me to go to Paris in order to discuss with the representatives of the various nations meeting there the crisis which has developed over Manchuria. In doing this, however, it is necessary to keep clearly and constantly in mind the difference between this Government's treaty obligations and those of the other Governments meeting in Paris with you. The United States, as a signatory of the Kellogg Pact and also of the Nine-Power Treaty of 1922, is keenly interested in having a settlement by pacific means of the present controversy in Manchuria and in having the sovereignty, independence, and territorial and administrative integrity of China (Manchuria being a part) respected. It has been hoped here that at this meeting in Paris a solution of these objectives might be found through discussion and conciliation, and that your presence there might prove helpful. The other states meeting in Paris are interested not only as signatories of the two treaties cited, but also as signatories of the League of Nations Covenant. These other nations have assumed under this Covenant certain rights and obligations to which this Government is not a party. As members of the League, China and Japan have covenanted that the machinery provided for in the

Covenant's various articles should be invoked by the other signatories under certain circumstances, but the United States, not being a signatory, has no right or obligation to Japan or China respecting the invocation of such machinery. At this Paris meeting it is quite possible that the subject of invoking this machinery may come up for discussion or determination. While supporting earnestly the objective of the other states, namely, the preservation of peace in Manchuria, and while not desiring to interfere in any way with the discussion or action of the other states in regard to matters forming a part of the League Covenant, the United States cannot participate in such discussion or determination nor submit itself to possible misconstruction in this respect. This Government must and will reserve in full its freedom of judgment and action as to any situation which may develop hereafter in consequence of the conduct of the other states members of the League. In view of this situation it is important for you in exercising your duties in Paris not only to confine your conferences to subjects within the purview of United States treaty rights and obligations, but also to avoid carefully any possible misconstruction and misrepresentation concerning the scope of your actions. This Government is most earnestly interested in our mutual objective of peace and desires to cooperate earnestly with these other states in supporting their objective. This it will do, but on account of the fundamental differences in the obligations the treaties impose, as well as their enforcement methods, it is necessary for this Government to proceed by its path independently and without confusion.

STIMSON

793.94/2779a : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 19, 1931—6 p. m.

576. For Ambassador Dawes: According to your suggestion made this morning by telephone, I give you below a suggested statement which you may give to the press if it appears to you to be helpful. The matter is left entirely to your discretion. To both President Hoover and me it would appear that any such statement might better be made by you in Paris than by us here, since the limitation of American action with the League appears to be understood better here than it is by the League members themselves:⁵⁸

"I have been directed to come to Paris for the purpose of discussing with the representatives of the different nations assembled here the

⁵⁸ Quotation not paraphrased.

crisis which is taking place in Manchuria. As a signatory of the Pact of Paris and of the so-called Nine-Power Treaty, the United States is deeply interested, with its fellow signatories, in seeing that the lofty purpose of those treaties is fulfilled. It has been the hope of my government that a settlement in accordance with the principles of those treaties would be arrived at through discussion and conciliation during the conferences in Paris and that the presence here of a representative of the United States would contribute to bring about a solution through this method. The United States is of course not a member of the League of Nations, and it therefore cannot take part in the discussions bearing upon the application of the machinery of the League Covenant. Since in the present crisis it may be possible that such discussions may arise, it is obvious that my presence at the meetings of the Council would not only be inappropriate but might even embarrass the efforts of the Council itself. But the position thus necessarily assumed by the United States in no way indicates that the United States is not wholly sympathetic with the efforts being made by the League to support the objective of peace in Manchuria. The United States must, however, preserve its full freedom of judgment as to its course."

Since the foregoing was prepared, it has occurred to me that it might be issued as a joint communiqué by Briand and you. If this idea appeals to you and if Briand subscribes to it, you may make the necessary, but only the necessary, changes and issue the statement as a joint communiqué; otherwise, please issue it as your own statement in its present form.

Let me know immediately when this action is taken, and give me the exact text used.⁵⁹

STIMSON

793.94/2783 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 20, 1931—9 a. m.
[Received November 20—5:20 a. m.]

970. American Consul General at Mukden reports:

"November 19, 9 p. m. Following is substance of news released by Japanese headquarters this evening:

Russians have taken no action as a result of Tsitsihar action. Japanese forces entered Tsitsihar at noon. Chinese troops are retreating in disorder north of Tsitsihar. Fourth Brigade of Japanese troops will arrive Mukden tomorrow."

For the Minister:
ENGERT

⁵⁹ In telegram No. 770, November 20, 1 p. m., the Chargé in France reported: "From Ambassador Dawes: Press statement contained in your 576, November 19, 6 p. m., given textually to press at 12, noon, Paris time." (793.94/2782)

793.94/2794 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, November 20, 1931—9 a. m.

[Received November 20—6:44 a. m.]

The following identic telegram is being sent to their respective Governments by my British, French and German colleagues:

"I and my British, French and German colleagues received summons from Mr. T. V. Soong late on November 19th. He informed us on behalf of the President, occupied with party meetings, that he had a grave announcement to make. The failure to act on the two resolutions of the League Council and the failure to meet China's recent request for neutral observers to be sent to Manchuria to prove on which side the aggression lay had created a deplorable impression throughout the country. The Chinese Government still believed that the attitude they had hitherto adopted was correct and they had not lost faith in the League. But the occupation of Tsitsihar by Japanese had brought matters to a climax. The Party Congress had that day held a secret session and passed a resolution that, in view of the dislocation of all machinery of government in Manchuria brought about by recent events, President Chiang should proceed to the North as commander in chief as soon as possible 'to watch events'. This was a very fateful decision and, while the resolution had already been carefully worded, we should read between the lines and understand all its implications.

In reply to our enquiries, he furnished following:

In face of national crisis all internal differences would be sunk. Nanking National Congress had at the same time reached the further decision to carry out to fullest agreement arrived at by Shanghai Unification Conference and in fact to accept all the demands of Canton. Nanking and Canton Party Congresses would each elect 24 members for new Central Executive Committee. Business of Party Congress would probably take until about Monday. Inquiry established that there was thus still an interval of few days before President's departure. Peiping would probably be his first destination. It was realized that wavering would be madness, but if some action were not taken Government would fall and Kuomintang itself be so discredited that existence not only of the Government but also of the party was at stake.

Asked if there was any special message for our respective Governments, he said there was nothing to add to above announcement."

Repeated to the Legation, Tokyo and commander in chief.

JOHNSON

793.94/2791½

*Memorandum of Trans-Atlantic Telephone Conversation*⁸⁰

SECRETARY: I called you up just to clarify one or two things and to be sure we understood each other. Of course you got my statement

⁸⁰ Between Mr. Stimson in Washington and General Dawes in Paris, November 20, 1931, 12:40 p. m.

yesterday that we would not put any obstacles in the way of the League's full action. Did you not?

DAWES: Yes, I did, and I have talked with Briand. He is entirely satisfied.

SECRETARY: He was satisfied with that statement?

DAWES: Entirely. I did not show him the statement I made to the press, but as to the other he expressed satisfaction and complete understanding.

SECRETARY: What I want to be clear that you do understand is that if the League proceeds to go on as you suggested in your telegrams and in your telephone conversations—that it might go on under the other articles on sanctions. We will offer absolutely no obstacles to that at all.

DAWES: They are cleared away, I think by what you have done.

SECRETARY: I mean that our position is perfectly understood. I do not see personally—I always hope that they may reach some settlement, but I do not think that it looks very much as if that would be the case now, and if they do not I see no other way that the League can do than to go ahead.

DAWES: That is the idea.

SECRETARY: Did you in your telephone message to me yesterday say that you had discouraged Sze from invoking Article 15?

DAWES: Yes, Briand is very anxious not to have Article 15 invoked now.

SECRETARY: I do not think you ought to give any advice to him. We do not want to take the responsibility of any advice to him.

DAWES: I have not given any advice to him. I said to him that I was giving him advice not to bring us into it. I told him this morning that we had no advice whatever to offer to him.

SECRETARY: That is all I wanted to be sure of. Certainly I should not give him advice.

DAWES: I was only talking to him about what he proposed to say about us.

SECRETARY: Certainly do not discourage him from going ahead.

DAWES: No, I am not going to. Not at all. The situation is this. Matsudaira has received from his government and transmitted to Briand a proposition from the Japanese Government recommending the appointment of a commission of the League, not under Article 15, but under Article 11.

SECRETARY: That was for an investigation of China and not Japan.

DAWES: Of China in Manchuria.

SECRETARY: But it did not include an investigation of Japan in Manchuria.

DAWES: I do not know as to the wording of that. Matsudaira is coming to see me in a few minutes.

SECRETARY: There would be a great difference between an investigation of China alone and a really full investigation of everything on the part of China and Japan.

DAWES: Well the proposition as I understand it is that a full investigation, that is as Briand has explained it to me, a full investigation of everything by Japan as well as China.

SECRETARY: That is very much more hopeful.

DAWES: In one of these telegrams we have got just what Matsudaira has to say. I will read it to you.

SECRETARY: Do not read it as the telephone connection is not good.

DAWES: Briand is still hopeful that they will agree with some investigation and that they will agree to a cessation of hostilities. However, I do not think Sze will agree to that. He tells me that as long as things run along this way and public sentiment in his country is getting worse all the time, he has been moving along and trying to keep it satisfied. The first thing they are going to do is overthrow his government and mobilize troops. I think it is a hopeless situation but Sze will ask for action under Article 15. I think he is going to present a proposition of his own tomorrow.

SECRETARY: Do you think that Sze would oppose a full investigation with a temporary cessation of hostilities?

DAWES: A full investigation?

SECRETARY: A full investigation of everything that Japan has done as well as China.

DAWES: I do not say that he will oppose that. He does not feel that he would oppose that but——

SECRETARY: Would he vote against it in the Council?

DAWES: I doubt whether he would or not.

SECRETARY: I doubt if he would vote against it. There is a chance—I mean if Japan has come to offer a full and neutral investigation with a cessation of hostilities, that is a step further than they have ever done yet. I say, if Japan has come to the point of offering to support an investigation by the League of everything in Manchuria both on the side of Japan and on China, that is a further step forward than I have heard of Japan doing thus far at all.

DAWES: Well that is right. Matsudaira has been waiting for that and it has come and that will go to the Council for discussion tomorrow. Sze's proposition——

SECRETARY: I think if Sze voted against that he would run the risk of putting himself in wrong.

DAWES: I do not think he is going to do that at all, and of course they are all very doubtful as to whether Japan can back up and do

what it has agreed to, but Sze will allow that to be discussed, in my judgment, and put it through if he can possibly do it. Because of public sentiment, he claims his government is in danger.

SECRETARY: The important point of that will be to have a fully empowered neutral commission. It must not be a partisan commission.

DAWES: That is right and I told Briand that. Do you remember, you suggested that in one of your telegrams—about a commission. I told him that you had been talking very much about that.

SECRETARY: I never thought that Japan would allow it from the beginning, but if she has come to that point, by all means that is a long step forward.

DAWES: Briand seems satisfied with your position in all these things and the fact that you are sympathetic to any movement on their part that they think best to take and thus when it comes to the decision made on their part that you will of course consider what your responsibilities are in connection with some acts of assistance to the League policy, consistent with your ideas. We have the same situation as we have always had, except now we are relieved of the disadvantage of all this talk about whether we are coming or whether we are not coming.

SECRETARY: That is good. Have you anything more?

DAWES: Matsudaira is downstairs and don't you think I had better send down to him to see if he has any late news?

SECRETARY: I will not hold the wire, but I will tell you this—

DAWES: I can give it to you right away. In my telegram No. 757⁶¹ the three Japanese points are mentioned. The Japanese withdraw the first point. They are not making the second point conditional upon the first point.

SECRETARY: The second point in that telegram as I understand it was merely an investigation of China and it did not include Japan.

DAWES: When I read it over it rather strikes me so.

SECRETARY: I will send you a telegram. All I want to get over the telephone are the things we are in a hurry about. There is one other thing. If the League should order an investigation, the investigating body should be purely a League agency. It should not include the United States.

DAWES: They will want to know about that.

SECRETARY: I am inclined to think that it is very much better not to have the United States on it, but to have a purely League body. They can get plenty of impartial investigators from the other nations and it would carry great weight provided it was purely impartial. On the other hand, if we allowed one of our members to go, I am inclined to think it might make misunderstanding again here, but I

⁶¹ Dated November 17, 8 p. m., from the Chargé in France, p. 467.

will reserve—I won't say definitely on that—I will not decide definitely against it in case there should be strong reasons the other way but that is my first impression.

DAWES: Until they make it. Let them make it first, and we do not have to participate in any discussions.

SECRETARY: It would be purely a League function. It would be an investigation under Article 11 of the League and we are not a member of that. At first thought there would be danger of misunderstanding here. I should not want to cripple it by staying away. We might be able to protect ourselves in some other way, but I would prefer not to do so. I have one or two other things. It occurred to me—this is for your confidential information—you have written me about the Nine Power Pact and the question of whether there should be an investigation of that Pact and I have answered that we did not want to do so, so long as there was any danger of crossing wires with the League. Do you remember? Now so long as the League has jurisdiction of this matter I do not think we had better invoke the Nine-Power Pact.

DAWES: I think that is wise because you can decide whether to invoke it after this thing is settled one way or another.

SECRETARY: But this is for your confidential information. Do not tell anybody. If the League should fail—if the League should break down and should be unable to go ahead with the imposition of sanctions under Article 16—if there should be a deadlock and it should just become futile, then I would consider very seriously for the United States to go ahead as the depository of that treaty by calling a meeting here in Washington, but I do not want anybody to know about that.

DAWES: I will keep it confidential.

SECRETARY: So long as the League is working on it, I do not think it ought to be thought of. Is it true that Chiang Kai-shek is going to Manchuria?

DAWES: I do not know. I have not heard about it.

SECRETARY: There is just one thought further—for your confidential information, we are very anxious that in case there should be a break with Japan that the issue should be perfectly clear and I think the League ought to have that in mind in whatever steps it takes. It is a very serious thing that when a breakdown occurs it should be on an issue which puts the blame squarely on Japan and they ought to think of that very carefully in whatever they do. That is what occurred to me. If Chiang Kai-shek, as the President of China, was making a peaceful visit to Manchuria, if the Japanese should not allow him to come it would be very serious for them.

DAWES: That is another occasion for your independent position. That is if they should fail to make that clear that you have the material there to make a perfectly clear statement in connection with your position.

SECRETARY: I strongly hope that they will not fail and we are doing everything we can to help them.

793.94/2791: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 20, 1931—2 p. m.
[Received November 20—9:15 a. m.]

972. Following from American Consul General at Harbin:

"November 19, 5 p. m. 1. Yesterday Ohashi called on Acting President of the Board of Directors Li Shao-keng and General Manager Rudi of the Chinese Eastern Railway, informed them that the Japanese forces south of Anganki in order to protect themselves had started military activities, that these forces had received orders from Honjo to respect the interest of the Chinese Eastern Railway and to avoid clashes with the Chinese guard troops of this railway, that there was danger that the troops of General Ma might take advantage of the Chinese Eastern Railway in some way as to prolong the conflict and thus endanger the property of the railway, and that to avoid such danger the railway should advise the Tsitsihar troops not to permit themselves to take this advantage. Ohashi stated that both agreed to issue orders to the railway guard troops to take every precaution to safeguard railway property. Ohashi called on Soviet Consul Orloff whom he assured that the Japanese troops had no intention of harming the interests of the railway and upon Ting Chao, commander of the railway guard troops, whom he urged to prevent defeated Tsitsihar soldiers from coming to Harbin."

Repeated to Nanking.

For the Minister:
ENGERT

793.94/2795: Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 20, 1931—3 p. m.
[Received November 20—12:55 p. m.]

771. From Ambassador Dawes: In an interview with Briand, I fully and satisfactorily explained to him the United States position in accordance with your 575, November 19, 5 p. m. The discussion was friendly, and I felt free also to give my own views on the local

situation in Paris. I remarked that Briand knew as well as did I that my present method of conferring with Council members individually on matters mutually interesting and concerning the United States and the League of Nations was in fact the only constructive and useful method of conference, since the discussions of the Council's private meetings were available to the press as freely as were the results of a public meeting.

Complete approval was expressed by Briand of the general attitude of the United States as outlined to him by me. I told him that public reaction to the cooperation of the United States and the League in the interests of peace would eventually be based upon their respectively coordinated acts rather than upon press discussion of lesser incidents. Both the League and the United States must steer not by the winds but by the compass, and Briand agreed with this. This Government now is in a position to determine its cooperative course by clearly and definitely stating the understanding that the United States retains its independence of judgment and action.

The matter of a public statement by me was not discussed with Briand, as it appeared absolutely essential to me for the best interests of the American position both here and at home that this position be clarified, and I desired to reserve my independence in deciding about the issuance of a statement. Accordingly I have given the press a statement which is identical with that suggested in your 575 [576], November 19, 6 p. m. [Dawes.]

SHAW

793.94/2792 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

TOKYO, November 20, 1931—6 p. m.

[Received November 20—9:40 a. m.]

229. Department's 235, November 19, 3 p. m. The Embassy has forwarded to the Department all the authentic information which was obtainable. It has been rumored that Premier Wakatsuki, Baron Shidehara, Count Makino, Ikki,⁶² and Inouye were marked for assassination. What information was available locally regarding the alleged plot was reported in the Embassy's 191, October 21, 11 a. m., and despatch No. 382, November 7,⁶³ while the present state of affairs was indicated in the Embassy's 209, November 6, 3 p. m., final paragraph.⁶⁴

⁶² Japanese Minister of Imperial Household Department.

⁶³ Neither printed.

⁶⁴ *Foreign Relations*, Japan, 1931-1941, vol. 1, p. 38.

The Government of Japan is a most complicated machine which is almost impossible for any one element to control. The deaths of Premiers Hara and Hamaguchi are recent examples of political assassination, which is not unknown in Japan. The divided control of Government agencies in this country is discussed at some length in despatch No. 383, November 7.⁶⁵ When there is political excitement in Japan, plots and attempts to assassinate leading officials are apt to take place. The present plot appears to have been frustrated, though some public excitement still persists and rumors constantly appear to the effect that the Government will be changed. (See my 223, November 18, 6 p. m.) I shall try to obtain more information, if possible, and to develop in a subsequent telegram the situation in more detail.

FORBES

793.94/2785a : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 20, 1931—9 p. m.

584. For Ambassador Dawes: Tonight's press despatches report a probable agreement on a commission of neutral investigators pending an armistice, with both China and Japan agreeing to the whole plan. It is reported also that the presence of an American probably will be suggested. Should these reports be true, the objection which I mentioned in telephoning you to having an American sit on a commission acting purely under the League's authority and against the opposition of one of the parties would not apply, and both President Hoover and I are inclined to feel that American membership might be very desirable. I shall, of course, want to know the details, the scope of the commission's activities, the terms of reference, and any reservations which any party may make before deciding to participate.

STIMSON

793.94/2808 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 21, 1931—4 p. m.

[Received November 21—11:20 a. m.]

774. From Ambassador Dawes: Sze confidentially informs me that at this afternoon's Council meeting he will propose a neutral and

⁶⁵ Not printed.

nonpartisan commission. He has attempted to frame this proposition so as to cause no immediate break.

Referring to my 773, November 21, 3 p. m.,⁶⁶ giving Sweetser's report of the meeting yesterday, I have not made any commitments concerning American membership on any body to be appointed and have said that the United States would make a decision in this connection when the occasion so required. [Dawes.]

SHAW

793.94/2807½

*Memorandum of Trans-Atlantic Telephone Conversation*⁶⁷

SECRETARY: Hello is that you General. I have had no messages from you except a very brief one telling me that Sze had informed you that he was going to prepare a statement.

DAWES: That is all I sent because there has been no change.

SECRETARY: I would like very much to know what happened yesterday.

DAWES: Nothing happened yesterday.

SECRETARY: The papers reported that both Japan and China had agreed in principle.

DAWES: That is the newspaper's idea. They are way ahead of the situation. The situation has not changed to the extent that they indicated at all. They had no reason to believe that they knew anything at all about China's attitude. Some of these big fellows have been talking encouragingly about the situation when they do not know anything about China's attitude and Sze came in this morning to see what we proposed to say and I suggested the whole thing was broken up. When I am talking to them I am saying nothing.

SECRETARY: That is right.

DAWES: But in the proposition that Sze was going to make, it all comes back to wanting to invoke Articles 10, 12, 15 and 16 and also to calling on the League to bring in the United States.

SECRETARY: What you are saying now is what China wants to do. This is what China wants.

DAWES: Yes that is what China wants to do this morning. She isn't going to do that. Sze was going to be very reasonable and play on with this Japanese proposition and make a suggestion for a non-partisan neutral commission like Japan [proposes?] coupled with troop withdrawal and it isn't going to be unconditional troop withdrawal by saying that Japan should be protected. In other words,

⁶⁶ *Post*, p. 523.

⁶⁷ Between Mr. Stimson in Washington and General Dawes in Paris, November 21, 1931, 11:30 a. m.; omissions in this memorandum are indicated in the original and apparently show poor telephone reception.

it was something if he hadn't heard from his Government, would have put us a long way toward settlement. But he just sent word to me, not over half an hour ago, [apparent omission] which he had sent to China had not been approved and they wired back that it was not strong enough in what he said about troop evacuation and they wanted to put in . . . It doesn't break the situation at all. It is just exactly where it was when Japan made this proposal and the reason why I haven't cabled you was because I wanted to keep you exactly informed of the situation. The papers were wrong in talking about the members of a commission and all that sort of thing.

SECRETARY: I want to tell you about something else.

DAWES: They were talking from incomplete information.

SECRETARY: I want to talk a minute.

DAWES: I just want to tell you one thing more. I want to ask you a question. Matsudaira came in here about an hour or two ago and he showed me what purported to be a telegram that Tokyo had sent to you about your representations to Japan. He said that you had told the Japanese Government that you were anxious to see this thing peacefully settled but that public sentiment in the United States demanded that something ought to be done by them to indicate a willingness on their part to stand by these propositions they promised to make and that otherwise it might be necessary for you to make a statement, in which you ask them what they could do and this telegram, he said, was to the effect that they would try within the next day or so to have a proposition to remove the troops at Tsitsihar and to carry that out it was . . . and that he very much hoped that could be done. If that is so, it would have a great effect if it could be made known to Sze—if you could make it known in some way that in holding them off . . . because Japan wants to pacify public sentiment in their country. It would be very much easier if they should know that Japan would like to do that. I don't feel authorized to do it without instructions from you. If I could tell him that I had gotten that from Matsudaira. I don't want to create the impression that we are working with one more than the other. What was in my mind and what I have been thinking of was to read what I am telling you and ask if I could use it at my discretion here.

SECRETARY: I tell you this. Of course, the form of the report which Matsudaira gave you is rather exaggerated and it is hardly recognizable. Two days ago, however, when the Japanese had taken Tsitsihar, you know that city in the north, I called in the Japanese Ambassador⁶⁸ and I told him that the situation looked to me as if in substance that the Japanese Army had run amuck and had seized all

⁶⁸ For memorandum of conversation on November 19, 1931, see *Foreign Relations*, Japan, 1931-1941, vol. I, p. 44.

of these places and was holding them and that it was a violation of these treaties and that I looked at it as a very grave situation and I told him that I must now reserve all my rights to make public everything that had taken place between the American Government and the Japanese Government. Do you see? I have been holding in confidence the terms of my memorandum of November 5 and their reply of November 9, which you have, and I have been holding back our press. I told the Ambassador today,⁶⁸ that it looked to me as though things had come to the breaking point and I couldn't promise to do it any more; that I had to look after my own public opinion. That evidently scared them and this reply this morning has come from that. The Japanese Ambassador has been in with what I suppose is the same message that Matsudaira has given you. It is not in writing but it is a verbal assurance that they are doing their utmost to conform to all of our suggestions. They are firmly determined to withdraw from the Tsitsihar region and they already have withdrawn two battalions of infantry and one company of artillery and they tell me that they are sending over the Assistant Chief of Staff to keep a hand on the coat tails of General Honjo.

DAWES: That man is probably the one that Matsudaira refers to as the Deputy Chief of Staff.

SECRETARY: Yes, they have sent him over there to put a check on General Honjo and that he (Shidehara) assured me that the policy which he outlined in his memorandum of November 9 remained the policy of the Japanese Government and that I could rely upon it no matter what Yoshizawa said in Paris. I had pointed out to them the same day that Yoshizawa's statement was entirely contradictory to Shidehara's note. Do you see? So much for that. The most important thing was that he then went on to tell me that Japan was making a proposition for a neutral commission to go to China, including Manchuria, and to investigate all matters which are in controversy between Japan and China. I examined him very closely on that and he told me that it covered everything,—all of these old questions of treaties or anything they wanted to go into. It is quite comprehensive and general and it intends to cover the whole situation—the Japanese and Chinese situation.

DAWES: Does it include, if it comes before the League, an investigation into the grievances which China has against Japan as well as those which Japan has against China?

SECRETARY: Yes, it is so drawn as to cover that. I think that is quite plain. They assured me that in that respect it differs very radically

⁶⁸ For memorandum of conversation on November 21, 1931, see *ibid.*, p. 46.

from the proposition which you telegraphed me—the one as coming from Matsudaira.

DAWES: That is right, it does differ.

SECRETARY: It must differ because the other was entirely unsatisfactory. I asked him specially whether the Army has consented to this new proposal and he told me that the Army had been consulted and had consented to it. He said that.

DAWES: Do you mean Shidehara said that.

SECRETARY: No Debuchi said that as coming from Shidehara.

DAWES: Here is something for you to decide right now. If the Chinese could know that in some way it would be a big help. If you would allow Sze to know that.

SECRETARY: I haven't any right to say that. They told me for my satisfaction and the only way you could do that would be for you to get Matsudaira to tell the others that.

DAWES: That is a sensible suggestion.

SECRETARY: Let me finish. He told me that the Japanese Government was taking steps to prepare public opinion for this step of a neutral investigation. I will say—this is my own opinion that I say now—it is a very long step forward by Japan beyond anything that I have ever known Japan to do before. Hitherto it has been contrary to Oriental opinion to have any neutral or impartial investigation into their affairs when they are in controversy. They always exclude the idea of a judicial or neutral investigation and Japan has consistently taken that position, particularly in regard to Manchuria. Do you see? I told Debuchi that if this was really done—if they had really made this proposition, in my opinion it would represent a very long step forward by Japan towards accommodating itself to western opinion, the opinion of the western world. Do you get that. Then comes this further fact. Debuchi went on to say that the League had proposed an armistice but that Japan had refused because it would admit the existence of a state of war. I told him that in my opinion that was a great mistake because it would destroy the value in a large part of the investigation unless it was accompanied by a cessation of hostilities and I told him that the agreement to suspend hostilities could be easily drawn so as to avoid any admission of a state of war. He listened very attentively and went away to telegraph my opinion to Shidehara on both those points, namely, that I thought that the proposition for a general investigation I would look on very favorably but that it certainly must be accompanied, in order to make it of any value, with an agreement to suspend hostilities.

DAWES: That is exactly the idea that you cabled in the note. That is the opinion over on the Continent—that it would not be any good at all unless you could get an agreement for a cessation of hostilities and

Briand, when I was over there the other day and was talking about that, didn't call it an armistice exactly but a cessation of hostilities. Here is what I have in mind. Sze is being assisted here by Robert E. Olds, who used to be Under Secretary of State.⁷⁰ I haven't known him but do you refer to him as a reliable man in every way.

SECRETARY: Yes, I have known him for many years and have regarded him as thoroughly reliable.

DAWES: I do too and he is very helpful in this thing. He is very helpful and I would trust him to be very discreet and he was the one that brought me the news of this despatch that Sze had gotten. I have just seen Sze and he read me what he proposes to do and China certainly has gone a long ways. Olds came over just about three quarters of an hour ago to tell me that when Sze put his proposition up to his Government, they said to make it stronger and to put in a time limit. I had gotten Sze to take out the time limit—the words about unconditional withdrawal—so it left the whole thing just where it was. Now if I could tell Olds and I was thinking of telling it so we could be safe against the impression of taking . . . from Japan or China would indicate that we were closer to Japan than China. I did not know how to do it. I have been thinking about this since we have been talking. I had thought about telling Matsudaira to tell him. Sze and Matsudaira are good friends. I don't know whether Sze's proposition . . . saying that makes certain that they are not going to do it—sort of an atmosphere. If you will let me tell Olds about the information you got—I can tell him personally and not officially and that he must not convey it to Sze in a way that comes from us and not to tell Sze at all until a day or so has passed so Japan's withdrawal can come without telling him.

SECRETARY: You can avoid one part of that by having the information on which my opinion is based coming from the League because practically everything that I have heard from Shidehara is in line with what has taken place in the League.

DAWES: If that is so that is all right. I can tell Olds.

SECRETARY: If you can put it that way.

DAWES: The Japanese are going to try to remove the troops at Tsitsihar in a few days if possible and that will enable him to hold off Sze until they have that news.

SECRETARY: Yes that part.

DAWES: I would not make any other statement until I see what I can do.

SECRETARY: So far as the news about Tsitsihar is concerned, I think you can tell him that I had received that message of assurance—as I

⁷⁰ July 1, 1927–June 30, 1928.

have just given it to you. Yes I think you ought to give them that message. The alternative is a break down.

DAWES: They should act quickly and the League has been very much worried. But as a matter of fact the papers do not know the whole thing and there is no foundation for it at all. I was very much surprised when I picked up the paper this morning, to find them talking about commissions.

SECRETARY: So far as the message about the Japanese Government informing me that it was firmly determined to withdraw from the Tsitsihar region as rapidly as possible, I see no harm in that message being conveyed if it will do any good.

DAWES: That is all I want.

SECRETARY: The thing I do not want you to quote me as saying is what I am saying to you about the merits of the general agreement of Japan to submit everything to a neutral commission.

DAWES: I won't say that. I am very careful about expressing any opinion from you unless I get a wire over here.

SECRETARY: I can tell you for your information so you can tell any one if it becomes advisable to use it, that the President and I both think that such an investigation by a neutral observer accompanied by an agreement for a cessation of hostilities would be a wonderful thing to have happen—a very good thing, and either of these countries, in view of present public opinion, would be a fool to refuse it.

DAWES: Yes, all right.

SECRETARY: Did you get my telegram last night about the attitude we would take toward an American on the commission?

DAWES: Yes, I did. Of course, I have not said anything about that. No, I won't do anything.

SECRETARY: Of course, we would have to know . . . in which the function of the commission was exercised whether it was a voluntary commission which Japan and China agreed to and also what the scope of its powers were.

DAWES: In Sweetser's report—

SECRETARY: I do not have Sweetser's report.

DAWES: I am wiring you what took place after I had conferred with Briand and you can see from Briand's statement that he does not know how much cooperation that the League could expect.

SECRETARY: I should use Matsudaira, if I were you, as far as possible to communicate with Sze or Olds either one. Or he could tell Drummond and let Drummond tell Sze but I see no harm as far as the Tsitsihar information is concerned. I don't see any harm in telling that.

DAWES: That is all that is necessary. We do not need anything more.

SECRETARY: I can not guarantee that the promise will be kept but the promise has been made.

DAWES: That will keep Sze from trying to press the thing under pressure from the Chinese Government. They are protecting him in trying to work this thing out.

SECRETARY: You can use the information that they have represented to me that they are firmly determined to withdraw from Tsitsihar and that already two battalions of infantry and one company of artillery have gone over the railroad.

DAWES: That is all we need. That is what Sze . . . that is all that would be of help.

SECRETARY: I do not guarantee the accuracy of the information.

DAWES: All right. Mr. Secretary, as long as you do not hear anything from me, there is no change in the *status quo*. There is no change—it rests on talk of the newspaper fellows. They say whatever they please.

SECRETARY: My advice to you is to let Matsudaira understand very fully our opinion so far as that general investigation is concerned. I sent you a very strong message that the previous proposition of Matsudaira was highly unsatisfactory. I see no harm in your telling him that we regard this as an entirely different solution if they are willing to investigate the whole matter through a satisfactory neutral commission but that to make it at all valuable, it must be accompanied by a cessation of hostilities.

DAWES: Suppose it goes ahead—suppose they decide on a commission. I think if the committee is appointed that will make it possible for the United States if it goes on . . . That is what is in my mind. We do not want to fall [*fail?*] in this thing. . . . make it a concession that we come over there and sit with them. Isn't it perfectly possible to get a committee that would not be a League committee—a neutral, non-partisan committee which had full powers in itself to be independent of the League?

SECRETARY: That might make it a little . . . but I would not turn it down for that reason alone.

DAWES: I understand Mr. Secretary, but I think they want to do everything they can to make good their position that way because I have been told that they do not think we are easy marks in the League by any means.

SECRETARY: On the other hand General, I am not at all adverse to having the League get all the prestige it can out of this thing.

DAWES: I know you wanted them to have it.

SECRETARY: I want them to have it. I am very anxious to have them get success out of this thing.

DAWES: That is right and I am assuming that. Another thing . . . came over to see me and I told them that I thought the League had done right and that as a result of the methods they had followed, they had gotten the thing pretty well where it could be adjusted. Remember that is what you said. Even if the League fails, it has had a great opportunity in the opinion of the world to do a great service. In our case we should make a clear statement of just what the issue was and it should be prepared in the proper way. Don't you remember you said that. I told . . . that I didn't want that as coming from me but he is going to say it. I have to be careful.

SECRETARY: I think you have done very well; I have no criticisms, nothing but praise. The main thing is if we can settle this thing peacefully, I think it will be a great thing and if we can suspend hostilities and get an impartial investigation, it lays the foundation for the future of broadening Japan's attitude towards western methods of investigation which I had been very despairing of before. It brings Japan much more into alignment with the methods of our peace treaties.

DAWES: When you do not hear from me, you know that there is no change in the *status quo*.

SECRETARY: When is the next meeting of the League? There are no more meetings of the League today?

DAWES: Yes, they are meeting now. I do not know what the outcome of it is and the Japanese have put in their proposition which they showed me but Sze is not putting his in because his government told him it was not strong enough—his present statement.

SECRETARY: I think that the vital thing now is to get word in some way to the Chinese not to make a fool of themselves. I leave that to your judgment.

DAWES: Sze is a good fellow and he has a very level head.

SECRETARY: You can say it any way you see fit but try not to bring us into it too far. It is the opinion of this section of the world that China had better not make a fool of herself.

DAWES: That is right. I don't think she is going to. Sze won't if he can help it.

SECRETARY: If anything dramatic happens—anything very important—at this meeting, you had better send it to me by telephone within the next four hours because I am thinking of going over to Baltimore for the night—just for the night. I shall not leave here until five and shall come back tomorrow morning. I will leave my telephone address so you can reach me.

DAWES: I don't think it will be necessary to telephone you because what is going to result is just what we have been going over.

SECRETARY: All right. Goodbye.

793.94/2764 : Telegram

The Secretary of State to the Chargé in France (Shaw)[Paraphrase⁷¹]

WASHINGTON, November 21, 1931—2 p. m.

586. For Ambassador Dawes: No. 764, November 18, midnight, from the Embassy. With reference to the statement by Yoshizawa that "China had even sought to bring up at Washington the treaty embodying the 21 demands which Mr. Hughes had recognized", I call your attention to the fact that the then Secretary of State appears to have neither recognized nor denied the validity of the 1915 treaties between China and Japan. Secretary Hughes, at the Washington Conference (as stated in my 328, November 11, 5 p. m., to you in London), reaffirmed this Government's reservations made in 1915 in connection with the negotiations and agreements of that year between the Chinese and Japanese Governments. It was also stated by Secretary Hughes that this Government would claim, under the most-favored-nation clause of American treaties with China, equal rights for American citizens with Japanese nationals in South Manchuria and Eastern Inner Mongolia. The Secretary then stated that "I may pause here to remark that the question of the validity of treaties as between Japan and China is distinct from the question of the treaty rights of the United States under its treaties with China."

STIMSON

793.94/2812 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 21, 1931—3 p. m.

[Received 4:53 p. m.⁷²]

773. From Ambassador Dawes: [Paraphrase.] Concerning the private meeting yesterday of the 12 Council members, exclusive of the parties, Sweetser reports the following: [End paraphrase.]

"Briand gave a report of the discussion he had had at the request of the other members with Yoshizawa, Sze and General Dawes.

The latter he said had expressed the desire of the United States to continue its collaboration and support of the League but its belief that it should not change the present basis thereof. If, however, at any time it could make any gesture which would help in the present difficult position it would be glad to consider it. In the special case of the commission the American attitude seemed to be entirely favorable.

Mr. Yoshizawa, as the other members knew, had submitted the detailed explanation the Council had requested as to the relation of

⁷¹ Quotations not paraphrased.⁷² Telegram in three sections.

evacuation to security while Dr. Sze had taken a stiff line as to any discussion before evacuation, or any price to be paid for evacuation. He was optimistic, however, that the parties could be brought to the acceptance of the commission idea which represented to him a decidedly constructive step.

Cecil drew attention to the Japanese statement as to a cessation of hostilities pending the report of the commission. This unfortunately had been promised ever since September 18 but had not eventuated. It was impossible to say finally who was responsible; the fact that the breaches of the peace took place on Chinese soil however left the inference that it was the Japanese. Should the Council not then have some measure of control? Should not some regular system of information on such points be a part of the settlement? Unless some such precaution were taken it would be impossible either to prevent further breaches or to know who was responsible. Another point also he would like to mention. Mr. Yoshizawa stated that the original conditions of evacuation are still valid but since their promulgation the Council had received very great amplifications bringing in in fact all the various treaties. The Chinese, however, hotly declined to accept such conditions which would mean the occupation would become permanent. He had searched the record and could find no such conditions suggested before September 30 which in effect meant that entirely new terms have been brought forward. In the circumstances he felt it essential to have a public meeting tomorrow; it cannot be postponed any longer.

Briand agreed to this last suggestion, fixing the afternoon as allowing the parties more time to receive instructions. He also agreed that some kind of control was highly desirable, also a more solemn engagement on both sides against aggravating the situation. He would then call a public meeting at 4 when Yoshizawa could make his statement including the proposal for a commission. Sze could reply and the Council then name a *rapporteur* to bring the material together in the form of a resolution which should also include control.

Cecil again stressed that the matter of evacuation still disturbed him. The new Japanese statement's first four paragraphs called for very far-reaching agreements which would require long discussion. The last paragraph however foresaw the possibility of some earlier evacuation which might mean that the Japanese were prepared to evacuate if the Chinese showed a real intention of carrying out the conditions even if an agreement were not finally drafted. Perhaps it would be worth trying to get a precision on this point.

Scialoja strongly supported the commission idea. This would allow time and the possibility of the parties' coming to an agreement. Belligerent sentiments would have chance to cool.

Madariaga, replacing Lerroux, while agreeing to the commission was preoccupied with the fact that this was a conflict between a weak and a strong power and that the public might think the Council's action was a surrender to force. He was sure no member of the Council had ever thought in September when security was first mentioned that it went so far as the Japanese now said. The Council owed it to itself to state that when it spoke of security it meant security in the immediate sense; it must stop somewhere; otherwise it would be astronomic. If the resolution to be adopted spoke of an armistice on the present

basis it must also stress the need of immediate evacuation. If there is to be a commission it will take time to form it; could the Council not make an immediate start on it from out of the local elements on the spot? The commission might be a starting point around which to build a system but it must be able to be buttressed in many ways. As regards the United States that Government seemed rather strong as regards article 2 of the Kellogg Pact; as Mr. Briand had said she is willing to go along a good way with the League, there is some reason to fear that the League is behind public sentiment in the United States.

Briand took up this point to say that the members of the Council should not have too great expectations regarding the United States. That Government was not ready to go beyond the Pact of Paris. It contemplated no sanctions. If the Council went too far it might disassociate itself from the United States. The Council therefore must go slowly. Already it had done a great deal; it was only necessary to think what would have been the case if it had not been there. He had the feeling that there were many in Japan who were keenly anxious to resume normal relations with China; the commission might form a rallying point. The Japanese did not want it to interfere with direct negotiations or the movement of troops; still its field was so vast it must be limited in order not to become atmospheric. Also the Council could recall the various promises made, especially that evacuation was to continue; the commission could not work at all if the situation continues as at present. By it however he hoped the Council could save the world's one single moral agency against war; the League was indeed the barrage behind which public opinion could rally in such crisis.

The Secretary-General here interrupted to restate a little more clearly what he understood to be Ambassador Dawes' view. He had thought he did not say that the United States was ready to impose sanctions nor yet on the other hand did he say that it was not ready to impose them. Indeed it was for this reason that General Dawes was all the more anxious that the commission to be appointed should be under article 11 rather than article 15. Briand added that American membership in the commission would be of considerable importance and seemed to be assured.

Cecil then drew attention to the desirability of giving the commission power to make interim reports if necessary. The final report would obviously require a good deal of time; some constructive suggestions might be possible at an early date. He again stressed the complete change in the Japanese attitude since September 30. It was very clear then that it was only a matter of protecting Japanese lives and property; there was no suggestion of treaty rights. He was also exercised to know what should be the proper international attitude toward acts short of war. These he felt might fall into three categories: simple protection of lives as in the case of riot; more serious punitive action; or finally military coercion to attain a political end. The last-named seemed to be the case here. It was distinguishable from war only in degree. The Council must guard itself against conniving with such action which is inconsistent with the Covenant, the Kellogg Pact and the Nine-Power Treaty. Finally he would like to deny that the use of article 15 would be an approach to article 16; it is only a resort to war which would make the latter operative.

Von Bülow approving the commission thought the terms of reference should be large enough to keep the commission in the field for a long time and thus help induce a solution. It might indeed be a point of departure for the solution; it could have much influence on the spot. If the commission reported that order prevailed in Manchuria, for instance, Japan could hardly insist on maintaining her troops there.

The next meeting was fixed for today, Saturday, at 4, in public."

[Dawes]

SHAW

793.94/2813 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 21, 1931—midnight.

[Received November 22—1:49 a. m.]

776. From Ambassador Dawes: At this afternoon's public meeting of the Council Yoshizawa proposed that the League send a commission to make an inquiry in Manchuria and China. He stated that the nomination and sending of this commission would in no way modify the desire of the Japanese Government to withdraw its troops as soon as possible to within the railway zone in accordance with the resolution of September 30th. He added that already, insofar as such action was warranted by the restoration of order, Japan has withdrawn a considerable number of troops and will proceed with that withdrawal under the conditions contemplated when the necessary security has been afforded.

Sze declared that no disposition which fails to provide for the immediate cessation of all military operations and the withdrawal of the Japanese forces immediately set in motion and progressively executed for a period of time of the shortest possible duration can pretend to be a solution of the problem. He said that his Government could not bargain for withdrawal or consent that withdrawal be dependent on any other matter than the arrangement of details for the securing of safety of life and property in the evacuated areas.

As to the position of his Government concerning the proposed commission of inquiry he said that while making no objection to it but on the contrary favoring any means of obtaining more accurate knowledge of events in Manchuria the Chinese will not for a moment agree that the creation of a commission should in any way furnish an excuse for a delay in beginning and progressively carrying out in the shortest possible time the complete withdrawal of the Japanese troops. The Chinese Government he stated will not be willing to discuss the proposal for a commission of inquiry upon any other basis.

All members of the Council endorsed the proposal for a commission as a move calculated to further a settlement of the immediate situation as well as of the underlying difficulties. A draft resolution is being elaborated. [Dawes.]

SHAW

793.94/2814 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, November 22, 1931—1 a. m.
[Received November 21—10:30 p. m.]

[1.] Koo called on me November 21, 10:30 p. m., and informed me that his Government was informed that a public session of the League Council was even then about to open at which a resolution would be introduced providing for a method of dealing with controversy in Manchuria. He said Briand had informed Sze of salient features of the proposed resolution under the following headings:

Number 1. The League would send a commission to Manchuria which should not be related to evacuation but would continue for a more or less indefinite time for the purpose of investigating pending questions; during this time the resolution of September 30 would remain in force;

Number 2. The commission would be composed of Europeans and an American to be sent at the earliest date;

Number 3. The commission would deal with any question which might be raised by any member of the League (Briand pointed out to Sze that this would give China an opportunity to raise any point which it might desire to submit for investigation).

Number 4. Briand observed that even if China were to invoke article 15 of the League Covenant a commission similar to that proposed would still have to be appointed.

Number 5. Briand expressed the opinion that the presence of this commission on the spot would quiet the situation in Manchuria and Japan would be obliged to evacuate the occupied areas in 4 or 5 months.

Number 6. Briand hoped that China would not oppose this proposal since it would establish certain principles, and details could be worked out subsequently.

Number 7. In the resolution the Council would ask for the immediate cessation of hostilities and for speedy evacuation, but without fixing a time limit, and the Council would insist on an understanding by Japan not to extend the areas of occupation.

Number 8. If the resolution were adopted the Council would adjourn to reassemble subject to the call of any member of the League Council.

Koo told me that Sze was led to believe that Japan had indicated its readiness to accept a resolution of this character.

2. Koo informed me that the Chinese Government had already telegraphed to Sze that this proposal was not acceptable to China and

that a counterproposal was being worked out which would be sent to him very shortly. The Chinese Government's chief grounds of objection to the proposal were that it was vague in its terms, it provided no time limit for evacuation, and it provided no method of bringing China and Japan together for a general settlement of outstanding questions.

3. Koo then described to me the principal features of the counterproposal which had been drafted and accepted by important members of the Special Commission on Foreign Relations and would undoubtedly be passed by the Commission November 22. These features were as follows:

Number 1. It provides for the immediate cessation of hostilities.

Number 2. It stipulates for the evacuation of occupied territory within a fixed period.

Number 3. China is to give assurances for the security of Japanese life and property in Manchuria.

Number 4. The League will "arrange for" a commission of neutral observers to supervise evacuation and the taking over of evacuated territory (note: Koo pointed out that the League would "arrange for" and not "appoint" the commission, thus permitting the participation of powers not members of the League).

Number 5. China and Japan will reaffirm the principle of respect for treaty obligations including the League Covenant, the Anti-War Pact, and the Nine-Power Treaty on principles.

Number 6. It will stipulate that China and Japan shall enter into immediate discussions, in the presence of the neutral observers, on the following questions: (a) Details of evacuation and reoccupation, (b) measures to safeguard Japanese life and property in Manchuria.

Number 7. All questions between China and Japan relating to Manchuria will be discussed and determined by a conference of interested powers which will be jointly convoked by the United States and the League, with the following principles serving as the basis for discussion and settlement: (a) Safeguarding peace in the Far East, (b) the promotion of the economic development of Manchuria through international cooperation, (c) removing causes of misunderstanding between China and Japan.

4. Koo remarked that on several occasions the League Council had been guided by what it understood to be the attitude of the American Government in regard to a given proposal and he said that on this account the Chinese Government was most anxious to learn at the earliest possible date whether the Chinese counterproposal outlined above would receive the support of the Government at Washington. He therefore urged that I inform the Department immediately regarding the nature of the counterproposal and that I give this information to him when received. He stated that the Chinese Government would welcome any comments or suggestions which the Department might desire to make.

5. I suggested to Koo that Sze be instructed to communicate this information to Ambassador Dawes in Paris and Koo asked that Dawes be informed of the Department's attitude for communication to Sze.

JOHNSON

793.94/2817: Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 22, 1931—2 a. m.

[Received 2:18 a. m.]

777. From Ambassador Dawes: The Chinese position on evacuation measures which should accompany a commission's appointment still remains unchanged. However, since you telephoned I have communicated the information you authorized me to give to Sze with, I believe, good effect.

Through the Secretary-General I am informed confidentially that at the present moment the proposal for an inquiry commission takes the following form, in which it is being transmitted by Yoshizawa to his Government at Tokyo:²³

"The Council having noted the declarations made and communication[s] presented [by] the representatives of China and Japan in the course of the proceedings of the Council in regard to the appeal of China under article 11 of the Covenant:

Decides to appoint a commission of 10 members to study on the spot and to report to the Council on any circumstance arising out of the said declarations and communications affecting the relations between China and Japan which threatens to disturb international peace or the good understanding between the two nations upon which peace depends.

Each Government will have the right to indicate to the chairman of the commission any question, falling within its terms of reference as defined above, the examination of which it particularly desires."

Regarding the above, Sweetser reports as follows:

The resolution was put in this form for the purpose of limiting the commission to matters which were covered by declarations and communications made in the course of the current dispute. The commission would thereby be saved from taking up every problem in the field of relations between the two countries.

Also, each Government would be given the right to raise any question it wished. Thus a general discussion would be avoided here and complete liberty would be allowed later. If they desired, the Japanese could raise the boycott question; similarly, the Chinese could raise

²³ Quotation not paraphrased.

the compensation question. Neither would therefore have to argue now the question of what the commission should discuss.

A wide geographical latitude would also be given the commission by its being permitted to carry on its studies "on the spot". By this phrase Nanking, Peiping, Mukden, and Tokyo are included.

The original Japanese suggestion was a commission of five members: American, British, French, Chinese, and Japanese. However, it has been suggested that it would be better for the Chinese and Japanese to be assessors instead of members.

Elaborated as a result of considerable discussion with the Japanese, this text is considered a great improvement on the original Japanese idea, which, limited to China's internal conditions only, would not have been acceptable to the Chinese and probably would have failed of recommendation by the other Council members.

If this text is approved by the Japanese and Chinese Governments, it would be embodied as a part of the general resolution which would embrace not only the commission idea but the ideas also of the September 30 resolution on cessation of hostilities and Japanese evacuation. The chief difficulty at present is to find an arrangement respecting evacuation which will satisfy public sentiment in both Japan and China. However, the Japanese have stated that the two ideas, commission and evacuation, are separate and that evacuation might occur as other conditions allowed and without relation to the commission.

Two other suggestions have been made in this connection: (1) that to bridge the time needed to constitute the commission and for it to proceed to the spot, the gathering of essential materials might possibly be begun at once; and (2) that to obviate the long delay until the final report is made by the commission, the latter might be empowered to submit interim reports regarding any specific aspects of the subject which it might think useful to complete at an earlier date.

[Dawes]

SHAW

793.94/2816: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 22, 1931—10 a. m.

[Received November 22—5:40 a. m.]

980. Following from American Consul General at Mukden:

"November 21, 6 p. m. Japanese headquarters reports that three trains of Chinese troops passed Shanhaikuan moving north. Local Japanese press today devotes much space to northerly movement of Chinese troops along the Peking-Mukden Railway and reports main concentration of troops to be around Koupangtze.

Japanese replacement brigade detrained and is being held, it is believed, in readiness for offensive action against Chinchow. Several trustworthy reports indicate that this is probable objective of next Japanese attack.

Reliable information received that ex-Emperor went back to Dairen on the 18th."

Repeated to Nanking and commander in chief.

For the Minister :
ENGERT

793.94/2815 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, November 22, 1931—1 p. m.
[Received November 22—9:45 a. m.]

983. Minister Johnson reports from Nanking, November 22, 3 a. m., with reference to his telegram of November 20, 9 a. m., that he had just learned from his British and French colleagues of the French Minister's instructions from Paris to dispatch observers to Manchuria to watch events at Chinchow and Tsitsihar. This was in response to T. V. Soong's statement on sending neutral observers to Manchuria and because of the possibility of developments in the Chinchow area. The British Minister has been informed that he will receive similar instructions, but he is anticipating these by ordering the British Military Attaché to go at once to Chinchow to observe and to report back upon conditions and developments in that region. The French Minister informed Johnson that an approach is being made to Washington to send similar observers. It is Johnson's desire, while awaiting such instructions, that the American Military Attaché at once proceed to Chinchow in order to report to him on the situation there, on the Chinese troops, if any, concentrating there, and on any developments which may arise. Johnson infers that a movement of Japanese troops may be expected from Mukden to Chinchow, and he wishes to have any such developments observed and reported upon.

For the Minister :
ENGERT

793.94/2829 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 23[22?], 1931—3 p. m.
[Received November 22—10:40 a. m.]

985. Following from American Consul General at Shanghai :

"November 21, noon. Though no condition has arisen which the Shanghai Municipal police could not handle without assistance, recent happenings in other parts of the world have rendered conditions in

Shanghai even more tense and necessitate greater precautionary measures than during any recent period. The Japanese marines are renewing their conspicuous activities, insisting they are necessary. The statement has been made, and I am inclined to concur in it, that the Japanese themselves are responsible for much of the anti-Japanese demonstrations. Their action would indicate that they believe an attack is the best defense, while the municipal authorities consider that an incident caused by such attack would possibly create a much worse antforeign demonstration. The Japanese cotton mills which employ some 60,000 workmen are curtailing their activities prior to finally carrying out of tentative agreement reached some days ago to close their mills sometime later because of the boycott. The Shanghai Municipal Council gave orders yesterday that Russian police be transferred to the northern district where a lot of Japanese residences [*reside*?] and in future so far as possible the Japanese police of the Shanghai Municipal Council will be in seclusion. This is a commendable precautionary move. While the Settlement authorities have succeeded remarkably well in the trying circumstances since the middle of September, the future is one which will require skill and tact to deal with.

The Chinese students in their enthusiasm to collect funds for General Ma Chan-shan during 2 days disregarded the refusal of the Shanghai Municipal Council to allow them to collect contributions in the Settlement and greatly interfered with traffic as well as the order of the Settlement. Last night they were informed that police would enforce its prohibition against soliciting funds in the Settlement. It is hoped today will see an improvement in the traffic conditions. Nanking informed.[?]

For the Minister:
ENGERT

793.94/2811 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 22, 1931—4 p. m.

[Received November 22—3 p. m.]

778. From Ambassador Dawes: Sze has outlined the condition of Chinese public sentiment which shortly may eventuate in his Government's sending positive instructions to prepare for the League a further statement of attitude which will break up the current negotiations. In order to prevent a too precipitate action of this sort, Sze may be obliged to issue some public statement with emphasis on China's not going along with the program of the League until satisfied with the evacuation conditions. The League program, involving a discussion at present of the details of the commission with no concurrent provision for Japanese evacuation, Sze feels, has created an unjustified public anticipation of a satisfactory solution. He thinks this compels him to make

a statement here such as will clearly show his Government that he has not in any way changed his position.

Sze thinks it is necessary for him to take this action to enable him to avoid an immediate impasse with the League, giving Japan thus a chance to commence the voluntary troop withdrawal of which you were informed by Debuchi. It should be understood that in the general interest China is refraining for the moment from invoking all its remedies and rights under the Covenant, particularly article X, but China is beginning to feel that the League's present actions may drive it into a corner and force it to act. At this juncture Sze is unable even to discuss the matter of the commission with the League of Nations. [Dawes.]

SHAW

793.94/2818 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, November 22, 1931—7 p. m.

[Received November 22—12:25 p. m.]

My November 22, 1 a. m., paragraph 3.

1. Koo has just called to say that Chinese draft was submitted to Foreign Affairs Commission today and was adopted with a few changes and it is now being telegraphed to Sze at Paris with instructions to furnish copy to Dawes.

2. Draft as adopted is as follows with clauses numbered as in paragraph No. 3 of telegram under reference:

No. 1. No change.

No. 2. For evacuation fixed at 2 weeks.

No. 3. No change.

No. 4. Commission of neutral representatives to be jointly appointed by League and America to supervise evacuation and the taking over of evacuated territory; to study situation in Manchuria and report for information of conference mentioned in clause 7.

No. 5. No change.

No. 6. No change.

No. 7. A conference of interested powers to be jointly convoked by the League and the United States to discuss and to settle all questions between China and Japan relating to Manchuria on the basis of the principles embodied in the Covenant of the League, Anti-War Pact and Nine-Power Treaty with a view to safeguarding peace in the Far East and to promoting economic development of Manchuria through international cooperation.

3. Above proposal will be accompanied according to Koo by an introductory statement somewhat along following lines:

Japan in the view of China by continued hostilities extending occupation in Manchuria has violated those Covenant provisions en-

joining members from going to war, especially articles X, XII, XIII and XV. In view of this violation, China is of the opinion that League should apply sanctions provided for in article XVI which in effect says that if any member should go to war in violation of articles XII, XIII or XI it would be considered *ipso facto* to have committed an act of war against other members who are forthwith to put sanctions into force. To uphold the sanctity of the Covenant and to fulfill the purpose of its existence the League should proceed at once to apply this article, but knowing the Council's natural hesitation in pursuing this course China does not wish to insist at present upon the enforcement of this article until every chance of a peaceful settlement has been exhausted. It is in this spirit of conciliation that China offers this counterproposal.

JOHNSON

793.94/2922

Memorandum by the Secretary of State

[WASHINGTON,] November 22, 1931.

I sent for the Japanese Ambassador to come to my house. When he called I impressed upon him two points. I first told him that the proposed neutral commission for investigation which Japan had suggested, and which the Council of the League of Nations was now discussing, would be futile without provision for a cessation of hostilities. I told him I had been thinking over and studying myself possible provisions for such a cessation of hostilities which would yet leave sufficient flexibility of action of Japanese commanders so that they would be able to protect their nationals against bandit activities and I was satisfied that a provision could be drawn. I said that I had drafted one for practice, but I did not care to suggest any to anybody as the negotiations were now going on in Paris. I told him further that the recent activities of the Japanese troops had demonstrated that no Japanese commander in Manchuria, of no matter how small a garrison, had any reason for apprehension of a successful attack against him by any of the Chinese troops; that the Chinese troops had demonstrated their inferiority in combat with even the smallest Japanese forces; that under these circumstances there was no need whatever for the offensive defense upon which the Japanese claimed to rely, and there could be no excuse which would justify a Japanese force in making an offensive attack upon any Chinese troops in Manchuria—they could quite safely await an attack by such Chinese forces. He acquiesced in what I said, pointing out that at Tsitsihar apparently less than 2,000 Japanese troops had been sufficient to destroy an army of 30,000 Chinese.

In the second place, I said that under these circumstances if an attack was made by the Japanese forces upon Chinchow there could

be no justification or excuse for it, and it would have to be regarded as an aggressive act. I said I had read press statements indicating that such an attack might be in contemplation and I was very apprehensive about it; that if it took place, I should regard it as rendering futile any further efforts at conciliation. He told me he would at once send my views to Baron Shidehara.

H[ENRY] L. S[TIMSON]

793.94/2822 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 22, 1931—8 p. m.

[Received November 21 [22?]-10:22 p. m.]

779. From Ambassador Dawes: I have just had a call from Simon and Drummond. To them I read my telegram sent in Embassy's 778, November 22, 4 p. m., so as to apprise them of the exact attitude of Sze. Also I have informed them as individuals, in confidence, of the importance you place, insofar as the presence on the proposed commission of an American is concerned, upon the difference between a commission which the League appoints in spite of the opposition of one of the two parties and which is exclusively under the authority of the League and a commission which is appointed with the approval of both Japanese and Chinese Governments. Without committing you at all, I told them that you were inclined to think it would be desirable to have an American member on the neutral commission of investigators which Japan and China accepted pending an armistice. This I did for the sake of having Simon and Drummond realize the importance, insofar as concerned American participation, of the appointment of the commission by unanimous agreement of the Council, with Japan and China excluded, under article 11 rather than article 15.

Without having first submitted it to Yoshizawa and Sze, Simon and Drummond furnished me with a copy of a tentative Council resolution which takes the place of the previous draft resolution (see my 777, November 21 [22], 1 [2] a. m.), and they hope to appease Sze somewhat by its first paragraph and to obtain his agreement to it. I shall quote its text at the end of this telegram for your observation, information, and such comment as you believe appropriate.

The fact, becoming increasingly evident, is realized by Simon and Drummond that the attitude of the United States is what influences Japan and China most.

I think they understand that one and the same thing, namely, the influence of the United States, is what has mainly influenced the recent

effort of Japan toward moderation and what prevents Sze, by his opposition, from immediately checking the Council's further consideration of the situation under article 11. This led them to inquire of me if you might find it possible to consider suggesting to both Japan and China that they be satisfied substantially with what the purely tentative declaration below suggests. From Simon's standpoint the reasons advanced for this are obvious. From the American standpoint, some of the reasons against doing this appear to me to be equally obvious: This would constitute a recommendation by the United States on behalf of applying League of Nations machinery, and this might cause misunderstanding in the United States and involve it in the failure of the League efforts, of which the prospects are only too tangible. It is becoming more and more difficult, on the other hand, for the Council to resist the internal pressure of certain members to do something and then depart regardless of consequences.

Therefore, any step the United States can take which would be helpful in averting an impasse just at present between Japan and China should at least be carefully considered. Accordingly, I pass on the suggestion of Simon and await your instructions.

The Japanese withdrawal from Tsitsihar at an early date, if not immediately—which you are assured by Debuchi is being attempted—becomes increasingly important. Should the withdrawal occur, it might greatly facilitate the agreement of both parties to the substance of the Council's tentative plan of procedure.

Alarming information received by Drummond about the Japanese intention to occupy Chinchow makes him most apprehensive.

I informed Simon and Drummond of your genuine interest in knowing exactly what would be the scope of activities of the proposed commission, its terms of reference, any reservations which may be made by any party, and all other relevant items; that you said these must be submitted to you if you are to make a decision as to participation.

The tentative resolution being considered here, as mentioned above, reads as follows: ⁷⁴

[“] 1. The Council recalls and reaffirms the resolution passed unanimously by it on September 30 by which the two parties declare that they are solemnly bound. It therefore calls upon the Chinese and Japanese Governments to take all steps necessary to assure its execution so that the withdrawal of the Japanese troops within the railway zone—a point to which the Council attaches the utmost importance—may be effected as speedily as possible.

2. Considering that events in Manchuria have assumed an even more serious aspect since the Council meeting of October 24 calls upon the two Governments:

⁷⁴ Quotation not paraphrased.

(a) To give the strictest orders to the commanders of their respective forces to refrain from any initiative which may lead to further fighting and loss of life.

(b) To take all measures necessary to avoid any further aggravation of the situation.

3. Invites the two parties as well as the other members of the Council to continue to keep the Council informed as to the development of the situation.

4. Desiring on the other hand in view of the special circumstances of the case to contribute towards a definitive and fundamental solution of the questions at issue between the two Governments,

Decides to appoint a commission of three members to study on the spot and to report to the Council on any circumstances affecting international relations which threatens to disturb peace between China and Japan or the good understanding between them upon which peace depends.

The Governments of China and of Japan will each have the right to nominate one assessor to the commission. It is understood that the commission has no mandate to interfere in any negotiations which may be initiated between the two parties or to supervise the movements of the military forces of either party.

N. B. The President after the adoption of the resolution will state

(a) That each of the two Governments will have the right to indicate to the chairman of the commission any question the examination of which it particularly desires.

(b) That the commission may should it so desire furnish the Council with interim reports."

[Dawes]
SHAW

793.94/2823 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 22, 1931—midnight.
[Received November 22—10:55 p. m.]

780. From Ambassador Dawes: After consultation with Briand the draft resolution contained in my 779, November 22, 8 p. m., has been modified by adding a new paragraph numbered 4 as follows (the words "as well as the other members of the Council" being omitted from paragraph numbered 3):

"Invites the other members of the Council to furnish the Council with information received from their representatives on the spot."

The old paragraph numbered 4 now becomes 5 and has been slightly changed to read as follows:

"Desiring, on the other hand, in view of the special circumstances of the case, to contribute towards a definitive and fundamental solution of the questions at issue between the two Governments,

Decides to appoint a commission of three members to study on the spot and to report to the Council on any circumstance which, affecting international relations, threatens to disturb peace between China and Japan, or the good understanding between them, upon which peace depends.

The Governments of China and of Japan will each have the right to nominate one assessor to the commission. It is understood that should the two parties initiate any negotiations these will not fall within the scope of the terms of reference of the commission, nor will the commission supervise the movements of the military forces of either party."

[Dawes]

SHAW

793.94/2821 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 23, 1931—1 p. m. [*a. m.*]

[Received November 22—10:50 p. m.]

781. From Ambassador Dawes: Doctor Sze circulated this evening the following memorandum addressed to all members of the Council other than China and Japan.

"In order to remove all possibility of misunderstanding I deem it my duty to place before you the following considerations affecting yesterday's proposals for the appointment of a commission of inquiry.

1. In the present emergency [*In principle*] there can be no objection to a properly constituted commission to investigate and report upon the existing situation in Manchuria. Indeed it is a step which might well have been taken 2 months ago had not Japan refused to entertain the suggestion.

2. I beg, however, to point out that the creation at this juncture of such a commission, however constituted and whatever the scope of its activity might be, is a purely illusory proposal unless it is based upon a simultaneous effective disposition covering the immediate needs of a situation which brooks no further delay. To put the matter more concretely, inquiry, without at the same time providing for immediate cessation of hostilities and for the withdrawal of Japanese forces (such withdrawal to begin at once and proceed progressively to prompt completion), becomes a mere device to condone and perpetuate for a more or less indefinite period the unjustifiable occupation of China's territory by an aggressor who has already virtually attained his unlawful objective while these discussions have been going on.

3. In the circumstances you will readily see that as I tried to make plain at yesterday's meeting of the Council it is quite impossible for me to consider the proposal in question or to participate in working out the details connected with it until the bases above mentioned have been adequately laid down.

China still sincerely hopes for a genuine solution of the problem at the hands of the Council but she can hardly be expected seriously to

visualize proposals that ignore and evade the essential factors which lie at the very foundation of her appeal to the League of Nations."

[Dawes]
SHAW

793.94/2827 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 23, 1931—2 p. m. [*a. m.*]

[Received November 23—12:08 a. m.]

782. From Ambassador Dawes: Sweetser comments upon the day's activities of the League as follows:

In conferences between Simon, Drummond, and finally Briand, there was drafted and approved a draft resolution which embraces the various points in the current conflict, such as the cessation of hostilities, Japanese evacuation, and the proposal of a commission (see Embassy's 779, November 22, 8 p. m.). This draft will be presented at 10:30 a. m. to a private meeting of 12 Council members, exclusive of China and Japan. Briand does not feel he is justified in presenting it immediately to the parties without first having it approved by his colleagues. He feels also that their approval would lend great weight to the draft and that this matter should be settled at the earliest moment possible.

As regards the Japanese, two difficulties are foreseen: First, the phraseology concerning the cessation of hostilities and evacuation is thought to be far more precise than the Japanese would wish. In this connection, Yoshizawa, without, however, having seen this text, saw Briand in the afternoon and expressed hesitation as to any suggestion of an armistice. He said it was very hard to know what might occur in Manchuria; throughout the territory there were many brigands and armed bands, and there might be another concentration even such as the one at Tsitsihar. In such contingencies the Japanese would need freedom to take necessary action.

Second, the Japanese formula for the commission's competence would appear to give this body power to discuss nearly every question of Far Eastern international relations. In the afternoon Matsudaira explained to Simon that he would like to have the commission able to consider any international problem, but Simon explained this to be quite impossible insofar as British interests were affected. Later Briand expressed the same point of view concerning French interests. Consequently the draft resolution to be presented tomorrow was so worded as to avoid this difficulty.

[Dawes]
SHAW

793.94/2828 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 23, 1931—3 a. m.

[Received November 23—2:14 a. m.]

783. From Ambassador Dawes: At midnight I was given by Sze a copy of the main parts of a telegram from the Chinese Government communicated to the Minister in China.⁷⁵ Sze told me his Government wished your comments on this message to be communicated to him through me, instead of by the usual course of direct communication with Minister Johnson in Nanking for the Chinese Government to transmit to Sze. Nanking is evidently taking matters into its own hands, restricting severely the discretion of Sze. Also it appears evident that in case anything of the sort from Nanking should go before the League Council, this would mean the failure of the League's negotiations. Sze, who has seen the text of the Council's proposed resolution (see Embassy's 779, November 22, 8 p. m.), speaks contemptuously of it. I am uninformed whether the Japanese have seen the text of this proposed resolution as yet. There is no reason for supposing it will be satisfactory to them. Therefore, I see only a slight promise in the situation for hope that the Council's negotiations will be successfully concluded. Without hearing from you, the Chinese will not dare to put before the Council the proposition as stated in the telegram from Nanking, for this includes proposals involving American demands. I am assured to this effect by Sze. Thus the situation gives you the opportunity at least to delay temporarily the prospective impasse through taking ample and entirely justified time to consider your reply. While you are so doing, the effort reported to you by Debuchi to withdraw the troops may materialize into something to ease the situation. You may perhaps consider whether, independently of the League and unembarrassed by any prior discussion with it, you are not afforded a good opportunity by the present situation to express your opinion directly to Nanking on the wise attitude for China at this juncture to adopt. Again, in view of the critical condition which has now been outlined to you, you may deem it wise to make further representations to Tokyo. In my judgment, it is the attitude of the United States which is, in the minds of several of these powers, of primary importance, while the attitude of the League, very important as it is, is still considered by them to be secondary.

⁷⁵ See first two sentences of telegram of November 22, 7 p. m., from the Minister in China, p. 533.

The other telegrams I am sending you tonight will, I believe, bring you up to the moment on the situation as it exists here. [Dawes.]

SHAW

793.94/2820 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 23, 1931—9 a. m.

[Received November 23—1:10 a. m.]

986. Legation's 983, November 22, 1 p. m. Colonel Margetts is leaving tonight for Chinchow. Captain Tenney returned November 21st from Harbin. Please advise War Department.

Nanking informed.

For the Minister:

ENGERT

793.94/2815 : Telegram

The Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, November 23, 1931—11 a. m.

430. For Minister Johnson at Nanking: Your 983, November 22, 1 p. m. As yet the Department has not been approached with such a request, but it approves the sending of the Military Attaché to Chinchow for observation as proposed by you, without reference to such a request and in regular course.

STIMSON

793.94/2825 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 23, 1931—3 p. m.

[Received November 23—7 a. m.]

990. Legation's 862, November 3rd, 3 p. m., and 864, November 3rd, 5 p. m.⁷⁶

[1.] Consul General at Mukden in despatch No. 486 of 16th (copy direct to the Department⁷⁷ and Tokyo) reports Japanese military headquarters on October 27th issued a statement defining policy in respect of seized materials in which foreign firms have interest. Statement briefly summarized follows:

Present situation has been occasioned by unlawful actions of Chang Hsueh-liang. Japanese Army is making every effort to prevent seized

⁷⁶ Latter not printed.

⁷⁷ Not printed.

material from coming into possession of Chang or other former officials of the Provincial or Nationalist Governments or bandits. Japanese Army, while sympathizing with interested Japanese and other foreign firms, cannot dispose of material until present dispute is settled and ownership of property is determined. The matter is being handled fairly and there will be no discrimination.

2. Consul General states that the only American property now being held by Japanese is aeroplane referred to in Legation's 864, of November 3rd, 5 p. m.

For the Minister :
ENGERT

793.94/2923

Memorandum by the Secretary of State

[WASHINGTON,] November 23, 1931.

The French Ambassador called and translated to me a telegram he had received from his Foreign Office. It was in substance to the effect that the French and the British had decided to send representatives to Chinchow as observers (the French representation consisting of M. Lepis, who was Consul at one of their consulates in that neighborhood, and a Commandant F., whose name I did not catch), and that M. Briand would appreciate it if we would send our observers as a demonstration of common action in that neighborhood, which might impress the Japanese.

The Ambassador then told me that the Japanese had proposed a Commission of Study (investigation) to inform the Council as to the problems which existed between China and Japan in respect to Manchuria and that this commission was to have no mandate to intervene in negotiations nor to supervise military action; that Sze had acceded in principle but had renewed his request for evacuation; and that other members of the Council had sought to restrict the activities of the Commission.

As to the first proposition, I told the Ambassador I was a little confused by the different suggestions made to me to send observers to Manchuria; that the Chinese had invited us to send observers of Japanese occupation and we had said we would do so as soon as such request was agreed to by both sides and therefore the evacuation became a practical and imminent possibility. The Ambassador said this was not his present request; that his was for representatives to go to the points of imminent danger in Manchuria so as to observe the respective merits of the two sides and thus to serve as observers of facts. He said he also thought that the presence there of observers from France,

Britain and America, would tend to influence considerably the Japanese and Chinese.

H[ENRY] L. S[TIMSON]

793.94/28551

*Memorandum of Trans-Atlantic Telephone Conversation*⁷⁸

SECRETARY: Hello, is that you General? Has anything happened that you wanted to tell me? I am sending you a telegram⁷⁹ in respect to an answer to your question about the Chinese counterproposal and the Council proposal. I think it will be a pretty strong one in favor of the League proposal and against the Chinese proposal because I think that the Council proposal is now in very good shape. I shall also send a message to Japan⁸⁰ cautioning them that it will be absolutely necessary to have a suspension of hostilities and warning them against an expedition to Chin Chow. That is the substance of about all I can do. I want to hear what the situation is with you.

DAWES: There is no change whatever in the situation from that which I sent you at midnight last night. Briand late this afternoon is seeing Sze and Yoshizawa to try to get them together on the proposal of the League. The reports that I get are that Sze is absolutely . . . He has arranged later in the evening to see Sweetser. I will send that report of the meeting which Briand had with Yoshizawa and Sze later.

SECRETARY: I can not speak too strongly of the folly on the part of China in resisting such a proposition, it seems to me, as this one of the Council.

DAWES: Do you say that in your telegram to Sze?

SECRETARY: I will. The telegram is for you to pass on to Sze, or so much of it as you think wise in your discretion.

DAWES: Do you answer the telegram directly to Sze.

SECRETARY: No, I answer it to you for you to give as much to him as you think may be wise.

DAWES: Sze will send it right back to his Government.

SECRETARY: I shall also repeat it to Johnson, our Minister to China.⁸¹

DAWES: Mr. Secretary, may I tell Briand or Simon what I have done?

SECRETARY: That depends on the situation that you are in over there. We intend to back you up.

⁷⁸ Between Mr. Stimson in Washington and General Dawes in Paris, November 23, 1931, 3 p. m.; omissions in this memorandum are indicated in the original and apparently show poor telephone reception.

⁷⁹ See telegram No. 589, November 23, 6 p. m., p. 547.

⁸⁰ See telegrams No. 240 and No. 241 of November 23 to the Ambassador in Japan, *Foreign Relations*, Japan, 1931-1941, vol. 1, pp. 48-49.

⁸¹ See telegram No. 119, November 23, 6 p. m., to the Consul General at Nanking, p. 549.

DAWES: I have reported to you everything that I have said to Simon or to Drummond. You know just how far I have gone with it.

SECRETARY: I have no objection to your telling Briand that I think the Council proposal as it now lies before me, is in good shape.

DAWES: If Briand knows that he will surely use it to make an announcement. It isn't possible to keep anything of that sort confidential.

SECRETARY: Perhaps you had better not tell him until it gets to the others.

DAWES: Mr. Secretary they are trying in every way, rumors are going around one way and the other, that we have approved the Council's proposition, which of course we have not done.

SECRETARY: Who is doing that, China?

DAWES: It is going around the Council table.

SECRETARY: Who is saying it, China?

DAWES: Sze came to see me and said that some of the clerks—not Briand, nor Simon nor Drummond, but some of the employees were saying that I had approved the Council's proposition. They want to get that out; they want to have the United States . . . I simply said that the proposition had been submitted to you for your information only.

SECRETARY: I don't think you had better tell Briand until it has gotten to Sze.

DAWES: I think it had better go to Sze.

SECRETARY: I would hold it back until they have it.

DAWES: It had better just go to Sze. He was up here asking me about it. I simply said that I had told them that I wanted to send it to you for your information and I can tell Sze that you sent this to me to read to him confidentially because that is where the influence is needed and where it will do good if any good can be done. Probably Sze can go ahead then.

SECRETARY: You had better wait until it gets to China first. You had better not say anything to the Council until it gets to China.

DAWES: Absolutely. Had I better say anything to them after I have communicated it to Sze?

SECRETARY: Not until you have passed it to Sze. Don't say anything to Briand until you have gotten it to Sze.

DAWES: I wouldn't do that anyway. Do you want me to say something to Briand after I have given it to Sze? I can see Sze any time.

SECRETARY: I think you can afterwards.

DAWES: I think I may afterwards. I had better say that it is an important decision from Paris which will go all over the press in the morning as the words from Briand.

SECRETARY: The point is that I don't think anything had better be said until the form of the proposal is made public.

DAWES: Not until the form of the proposal is made public. That is a very wise decision.

SECRETARY: Don't say anything until the proposal itself is public.

DAWES: There probably will not be another public meeting until Thursday.

SECRETARY: When will it be held?

DAWES: They are going to have another public meeting on Thursday. Mr. Secretary, I will explain the situation a little.

SECRETARY: The connection is poor I can not hear you.

DAWES: There is a little difficulty about how to handle this thing with Briand.

SECRETARY: I will try to send you this telegram tonight so you will get it tomorrow morning. Do not say anything to Briand until you have passed it on to Sze. That is understood. Then if the proposal of the Council remains in its present form as contained in your two cables to me, 779 and the one that amends it,⁸² I have no objection to your telling Briand that I think it is in good shape. That in general we approve of it, but I should rather have it public before my own approval is made public. That is all I want to say.

793.94/2852 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 23, 1931—4 p. m.

[Received 7:43 p. m.]

784. From Ambassador Dawes: Sweetser reports on the Council's private meeting from 10:30 a. m. to 1 p. m. today as follows:

The 12 Council members, excluding Japan and China, were presented by Briand with the draft resolution prepared in yesterday's negotiations between Simon, Drummond, and Briand. The latter explained the draft was based upon the Japanese proposal for a commission, which had been surrounded, however, with impossible conditions, and during the past few days efforts had been made to remove these conditions and to add other material on evacuation and cessation of hostilities, points which would enable the Chinese to accept and which accorded with the principles the Council had been called upon to defend. Briand's effort was, if possible, to get unanimity; otherwise a break would result. If the commission could once be set up, one of two alternatives immediately would become clear; namely, either the two parties would have on the spot the means of

⁸² i. e., No. 780, November 22, midnight, p. 537.

conciliation and agreement, or it would be evident that no way out was available. However, Briand saw great difficulties in obtaining acceptance of the proposal. Parts of it the Japanese would not like; and the Chinese already had announced last night in their memorandum that they must be satisfied on the evacuation question. Briand felt for the moment that his best course would be to present this draft to the Chinese as the best which it seemed possible to obtain from the Japanese and then see what would be proposed by the Chinese. It must still be the Council's hope to be able step by step to build up an agreement.

There followed a discussion which showed certain Council members had grave hesitations in regard to whether the draft resolution went far enough either to obtain Chinese agreement or to safeguard the Council's already announced principles. Madariaga of Spain found it very paradoxical that, while the Japanese in the beginning had resisted any interference at all in a matter they regarded as strictly between Japan and China, now they were proposing a commission to study all phases of relations between the two countries with the exception, so far as he was able to judge, of the presence on Chinese soil of Japanese troops. Madariaga questioned the limitation statement which appeared to exclude any consideration of the military aspect from the commission's task and likewise the relegation to the speech of the Council President of the right of either side to raise any point it desired before the commission. After 3 months' effort he did not like the appearance of covering up the principal problem of the presence on Chinese territory of Japanese troops nor being diverted from the one immediate issue to other more extensive issues beyond.

Agreeing that unanimity was desirable, Colban of Norway did not see how this could be obtained after reading the memorandum by China and knowing the view of Japan. However, if unanimity was impossible, the Council could not adjourn with a text which gave the impression of accepting the Japanese invasion of Chinese territory. Colban hoped the draft would not be presented as definitive to the Japanese, thus justifying them in false hopes. Unfortunately, however, he had no alternative to offer. Fotitch of Yugoslavia expressed the fear lest the text be interpreted as admitting concurrence between the commission and the occupation and as actually legalizing the latter.

Simon agreed on the necessity to make it clear that Japanese evacuation should not be put off until the end of the commission. Evacuation should take place prior to and not at the close of the commission's labors. Unless this were made plain by the Council, there would be no chance of Chinese acceptance. Evacuation should be independent of the commission, and it was most important for the commission not to be taken as an excuse to delay evacuation. To this effect Simon proposed an amendment to point 5 that "it was further understood that the deliberations of the commission should not be regarded as any ground for delaying the evacuation of the Japanese troops." It was agreed by Briand that he would attempt an improvement of the draft in this connection for the purpose of removing his colleagues' impression that the text might be interpreted to legitimize the occupation.

Madariaga raised the question also as to whether the limitation in regard to no supervision of either party's military movements would prevent consideration by the commission of the military aspect of the Manchurian situation. It would appear to him wrong to have a commission of the League in Manchuria possibly quite helpless at a time when military movements were afoot. He recalled that the Council had now put the question of evacuation four times. This was becoming now a bit commonplace, and he did not see how the commission would be able to disinterest itself from the main question.

In reply Briand stated that Japan did not desire the League to send a commission which would control Japanese armed forces. Drummond then added that the commission might report respecting military aspects but could not issue orders to the troops. The Japanese, for instance, wanted the right to take antibandit measures without having to ask the commission's consent. Simon thereupon inquired if the Council might envisage an early public meeting. While the draft resolution of course must be discussed first with the two parties, he feared the prolongation indefinitely of private meetings. The public impression was growing that grave events were transpiring, while the Council was privately discussing the matter, without any effective action. Should not a public meeting be held at least before the week ended?

Briand answered that on November 21 a public session had been held just as soon as there was something of substance to be put before it. The Japanese had at that time suggested the idea of a commission, and now it was desirable to study this idea in order to try to have material ready for the next public session. However, the week should not end without deciding one way or the other; there should be either an agreement or, as on the previous occasion, a draft resolution.

Briand explained then that he would try to modify the draft by taking account of the preoccupations as expressed and that he would discuss the draft with the Japanese and the Chinese this afternoon. However, he would make it clear that this draft was only a plan which his colleagues had not yet approved and which was consequently still open to amendment by them. The results of his interviews would be reported at 11 a. m. tomorrow to his colleagues.

[Dawes]

SHAW

793.94/2828 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 23, 1931—6 p. m.

589. For Ambassador Dawes: Embassy's No. 783, November 23, 3 a. m. Herewith are my views respecting the League Council's proposed resolution (see Embassy's 779, November 22, 8 p. m.) and the proposed Chinese resolution reported to me by the Minister in China under date of November 22, 1 a. m. These views may be com-

municated by you, so far as you in your discretion deem it wise, to Dr. Sze.

In the Council's proposal the central point is the provision for a commission of neutrals with broad powers to study and to report upon all circumstances which threaten to disturb the peace between the two parties concerned or their good understanding upon which peace depends. In its possibilities for future good, this central point far transcends any proposal which I have seen thus far, not only during these protracted negotiations but also in any similar problem of the Far East. This proposal proceeds on principles underlying substantially all modern conciliation treaties executed by the states of the Western World, and it would, if adopted in this case, I believe, go farther in alining the peace methods of these two nations with those of the rest of the world than would any other step which might be taken. To me the proposal seems to furnish the most effective means possible to reach a general world understanding of the necessities underlying a permanent settlement of the Manchurian problem. The ultimate settlement of this problem must be reached by negotiations between China and Japan, but these negotiations will be more effective in arriving at a just and permanent solution if made in the light of such an investigation's report than without it. The time required for the investigation also will afford a much needed chance for the cooling of existing hostile feeling. In my opinion, such a commission by its presence and operation will tend also to insure against these direct negotiations resulting in the imposition, by reason of military pressure, of unjust terms. Thus the provision for a commission preserves the essential principle which has been our common goal. The proposal contains also a repetition of the September 30 resolution with its covenant of Japanese troop withdrawal, as speedily as possible, within the railway zone. It contains also a covenant providing that the military commanders abstain from any initiative which may lead to more fighting. The language used for this last proposal appears to me to provide effectively for cessation of hostilities and probably is the best which can be drawn under present circumstances.

The proposal represents the painstaking efforts and negotiations of the representatives of the states gathered at Geneva, and later at Paris, in an earnest endeavor to find a peaceful settlement of this difficult problem. To this Government it seems, taken all in all, to indicate the most hopeful path to a solution, and this Government believes that the proposal carries with it a great presumption in its favor, and that its rejection would involve a serious responsibility.

As to the Chinese counterproposal, this has been given careful consideration also, but this Government does not hesitate to say that it

does not regard this, even from the standpoint of China's interest, as effective as the proposal offered by the League of Nations. The Chinese proposal, furthermore, contains a number of provisions which appear to this Government to be entirely impracticable.

When you have discussed the foregoing with Sze and have had his reaction to it, you may then, in your discretion, inform Briand that the Council's proposal has been considered by this Government, which finds it apparently satisfactory and a very hopeful advance beyond the proposals made heretofore. Should you discuss the terms with Briand, emphasis should be laid on the proposition contained in the proposal for a cessation of hostilities, which I would think is an essential part, the absence of which would make the rest unsatisfactory.

STIMSON

793.94/2828 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, November 23, 1931—6 p. m.

119. For Minister Johnson: I have just cabled Ambassador Dawes at Paris as follows:

[Here follows text of telegram No. 589, November 23, 6 p. m., to the Chargé in France, printed *supra*, with omission of the final paragraph.]

I think the substance of the above message should be communicated by you to the Chinese Government. This would appear to be especially important, for the Ambassador of a nation represented on the Council has approached me to state that the Chinese, who are taking a more intransigent attitude toward the League resolution, are basing their observation upon the alleged fact that the Chinese Government has been told by you that the United States is ready to go much farther than the League of Nations to support the Chinese position. I am transmitting to you by separate telegram the text of the Council resolution referred to above.

STIMSON

793.94/2888a : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 23, 1931—10 p. m.

593. For Ambassador Dawes: My 589, November 23, 6 p. m. Should the League Council have serious difficulty in gaining China's consent

to the Council's proposal in its present form, I think Briand might well insist upon Japan's further agreeing therein to Tsitsihar's immediate evacuation. In this locality there are no Japanese nationals to be protected, and there is no legitimate reason for Japanese troops to remain there. Tsitsihar's occupation and the losses inflicted upon its Chinese defenders have impressed the entire American press most painfully. To insist upon immediate Japanese retirement would tend to support the position of the League and to help the Chinese Government in obtaining popular support for acceptance of the Council's proposal. I am cabling the Embassy in Japan⁸³ urging immediate withdrawal and likewise warning Japan that a further expedition against Chinchow, which the press forecasts, would, in my view, render useless any further conciliation efforts.

STIMSON

793.94/2853 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 23, 1931—2 p. m. [*midnight*.]

[Received November 23—9:38 p. m.]

790. From Ambassador Dawes: Final subparagraph under paragraph numbered 5 of proposed resolution as transmitted in my 780, November 22, 12 p. m., now reads as follows:

["The Governments of China and of Japan will each have the right to nominate one assessor to assist the commission. It is understood that should the two parties initiate any negotiations these would not fall within the scope of the terms of reference of the commission nor would the commission interfere with military measures taken by either party."

The following new final subparagraph has been added to paragraph numbered 5:

"It is further understood that the appointment and deliberations of the commission are not to be regarded as any ground for delaying the withdrawal by the Japanese troops within the railway zone as laid down in paragraph 1 of this resolution."

Above amendments are result of this morning's private meeting of Council members (see my telegram 784, November 23, 4 p. m.) and the resolution so amended has been communicated by Briand to Sze who has agreed to transmit it to his Government but who expresses no hope that it will be accepted. [Dawes.]

SHAW

⁸³ See telegram No. 241, November 23, 10 p. m., *Foreign Relations*, Japan, 1931-1941, vol. I, p. 49.

793.94/2862: Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 24, 1931—2 p. m.

[Received November 24—1 p. m.⁸⁴]

791. From Ambassador Dawes: Sweetser reports on the activities yesterday afternoon of the League as follows:

The draft resolution was amended this afternoon in the light of the discussion of the morning (see Embassy's 784, November 23, 4 p. m., and 790, November 23, midnight) in respect of two points, namely: First, the relationship of the commission to the control of the two parties' military activities was clarified by the thought that the commission could report on such activities but could not issue orders to the troops of either party, especially if, for example, the Japanese deemed it necessary to act against bandits; second, the amendment which Simon proposed on the point which Madariaga, Colban, and Fotitch raised to be an additional paragraph, to make it clear beyond any dispute that the commission's constitution should not be interpreted to justify any delay of evacuation.

Immediately afterward, Drummond had an hour's interview with Sze and presented to him this resolution. Drummond urged it as being very much in China's interest to accept and later stated he had tried every argument possible, even inquiring what alternative to it the Chinese could see. However, Sze was adamant and said his instructions allowed of no choice and that China could not agree to the commission if it were not accompanied by a time limit for Japanese evacuation. In the end, Sze agreed to wire the draft text to his Government, though he had no hope of its acceptance.

Sze then had a long talk with Briand who similarly urged China, in its own interest, to accept the resolution. He pointed out that the commission's creation in fact would constitute the commencement of an effective international interest concerning Manchuria and the completion in actual practice of the control which, in principle, was foreseen at the Washington Conference. Briand thought this would constitute for China a great forward step in handling the Manchurian problem.

Simon likewise had a long interview with Sze and used much the same arguments. It is, however, understood that Simon personally is not so hopeful as to an agreed solution and is contemplating the kind of statement to be made in the event of a disagreement.

It was felt better, under the circumstances, pending receipt of the final Chinese answer, for Briand to refrain from presenting the draft formally to the Japanese. So the only step taken in this connection was Drummond's transmittal of the draft unofficially and informally. At the moment it is felt that if the Chinese should finally refuse, it would not be best for the draft to be presented at a public meeting, thereby forcing the Chinese to vote against the other Council members. The present temper of the Council members would appear to be to make

⁸⁴ Telegram in two sections.

every effort to persuade the Chinese to accept a proposition which they feel genuinely to be in China's long-range interest; but not to place the Chinese, if they do not or cannot for internal reasons see it in this light, in a position of voting alone in opposition to a suggestion advocated by the remainder of the League Council.

[Dawes]

SHAW

793.94/2860 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 24, 1931—3 p. m.

[Received November 24—9:30 a. m.]

994. Your 418, November 14, 4 p. m. See Department's instructions number 66, January 25, 1922, and 213, August 19, 1922.⁸⁵ Legation's files show, however, that in October and November 1911 the American Consul General at Tientsin appears to have associated himself with his colleagues in discussing and acting upon a request from the then Viceroy of Chihli for the temporary suspension or modification of the 20-li rule. I find weekly [no?] despatches to the Department on the subject, but see Peiping dean circulars numbers 151 and 152, November 1st; 155 and 157, November 5th; 167, November 11th; and 177, November 19, all in 1911.⁸⁶

Consul General, Tientsin, reports as follows:

"November 17, 10 a. m. In the present situation the Japanese made the demand independently of the other powers signatory to the note of July 15th, 1902. Local American officials have in the present instance confined themselves exclusively to precautionary measures, in cooperation with the Chinese police authorities, for the protection of American lives and property by the employment of small detachments for guard duty in the general defense plans for Tientsin which have long been in force. It is not expected that there will be any need in the present circumstances to deviate from that course."

For the Minister:

ENGERT

793.94/2864 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 24, 1931—3 p. m.

[Received 4:20 p. m.⁸⁷]

792. From Ambassador Dawes: The substance of your 589, November 23, 6 p. m., I have communicated to Sze. He is telegraphing his

⁸⁵ Neither printed.

⁸⁶ None found in Department files.

⁸⁷ Telegram in five sections.

Government about your attitude as I explained it, stating it in these words: ⁸⁸

"We have been given to understand by Ambassador Dawes that the attitude the United States at this juncture with particular reference to the proposal of a commission of inquiry is this. The United States is inclined to welcome the fundamental idea of the League draft resolution as embodying a very important principle of future utility. If such a principle is now laid down it would be the first time that the underlying idea of conciliation treaties known to the Western World has been recognized in international relations in the Far East.

In essence the proposal contemplates a neutral commission which would lay the basis for ultimate negotiations between the interested parties themselves leading to an adjustment of all their differences and the establishment of permanent peace between them. In this sense the resolution is commendable.

Construing the resolution by its four corners and referring particularly to the reaffirmation of the Council's previous resolution of September 30, it means (first) the cessation of hostilities and (second) the withdrawal of the Japanese forces as speedily as possible. When the commission of inquiry reports or possibly at any time the ground would be prepared for negotiations between the two parties. There would be a better chance for successful negotiations in the light of the report of the committee on inquiry than without it. It is believed in these circumstances the element of military pressure leading to the imposition of unfair terms would be less operative. On the whole the resolution is regarded as perhaps the most effective solution that can be practically arrived at in present circumstances; and carries with it a great presumption in its favor so as to involve serious responsibility in its rejection.

With regard to the counterproposal of China the United States unhesitatingly states that even from the point of view of China's own interest it is not considered that this proposal is as effective as the one which in substance has been reached by the Council. Moreover, several provisions in the counterproposal strike the United States as entirely impracticable."

In addition, Sze asks his Government if it wishes, in view of this American attitude, to change its instructions that he file his former proposal, transmitted by Minister Johnson to you. Sze also recommends to his Government the elimination of references to the United States in the event Nanking still desires this former proposal to be filed by him. He says he will let me know when he receives his Government's reply.

In regard to your sentence "The ultimate settlement of this problem must be reached by negotiations between China and Japan", Sze wished me to say to you that he believes there could be no ultimate settlement unless the negotiations between China and Japan were conducted in the presence of neutral observers, as at the Washington Conference conversations on Shantung.

⁸⁸ Quotation not paraphrased.

Now I interpolate a report on what I have done regarding a call from Sweetser who came while this telegram was in preparation, and thereafter I will indicate the reasons for my message to Briand. Sweetser said that before the Council this morning Briand suggested it would be a useful contribution for the United States to reveal its attitude on the draft proposal and, if it were approved, to inform the Chinese and Japanese accordingly. Briand stated also that he hesitated to request the American representative to see him until the Council had some decision and that perhaps the best course would be to have Drummond try to see the American representative this afternoon in order to ascertain whether he were able at this decisive moment to lend any assistance or cooperation. So I sent, confidentially by Sweetser, to Briand the following suggestions:⁸⁹

"(1) The United States is active with the parties.

(2) Will gladly come to see Briand when answer to Sze's despatch is received by the Council which will be some time tomorrow. Parenthetically, Sze has informed the League that he has sent cables to his Government on the situation to which he expects an answer tomorrow.

(3) Mr. Dawes feels that the United States is not able to express an opinion respecting the negotiations of the Council until the text of the resolution is at least published."

You say in your 589: "When you have discussed the foregoing with Sze and have had his reaction to it, you may then, in your discretion, inform Briand that the Council's proposal has been considered by this Government", etc. I consider it to be absolutely essential, as was suggested in your telephone message, to permit no public reference to the United States' cooperative attitude and action in this matter pending publication of the League's proposed resolution. Under the League's normal procedure, the resolution cannot be valid before it is presented at a Council meeting and is there agreed to by both China and Japan. If prior to publication of the resolution I should inform Briand of the American demands and action, he would inevitably use this information, in spite of anything I might say, in continuing his efforts to bring the two parties together, and this cannot be effective unless their former attitude, as expressed to Briand by the Chinese and Japanese, has been changed by your messages from Washington to them. This fact, together with a total lack of effective protection from publicity in confidential League meetings, might mean then that the press would represent the United States as engaging in the League's discussions of plans to apply the League's own machinery. Again, I want to be certain that, in connection with this particular resolution's presentation, the Council members are agreed among themselves.

⁸⁹ Pars. (1) and (2) not paraphrased

While Briand favors continuing conciliatory negotiations with the two parties, Simon stands for the League's closing the whole business this week at a public meeting, for which he is, I understand, preparing a statement. Therefore, if the attitude and action of the United States should become public prior to publication of an agreed-upon resolution, the United States might be represented not only as taking part in a matter involving application of League machinery, but as taking a position on the question of applicability, upon which even the members of the Council are not yet agreed.

At this stage, when some time will elapse until China's reply to Sze's telegram arrives, I am turning over in my mind at the moment the following: As Council President, Briand may perhaps be able to give to the press, well in advance of the Council's public meeting, the text of the agreed-upon resolution to be presented by him for consideration. If so, then you or I, as you prefer, might make a statement regarding the favorable attitude of the United States in principle to the method which the resolution recommends. I reflect, on the other hand, that it is possible the Japanese will neither stop their march toward Chinchow nor withdraw from Tsitsihar; that it is problematical if Japan will agree to the resolution; that it is also possible, as Sze says, that if the Nanking Government does agree, it will collapse, with chaos resulting in China; and therefore that it is possible the negotiations of the League may by tomorrow have gone for naught, with its further deliberations ceasing to have immediate, practical interest for the world.

In this event should the United States, after doing everything possible independently by positive act and attitude to bring success to the League's negotiations, advertise publicly its participation in the failure of the League, tending thus to lessen the prestige derived from the independent American position? Since there remains at least until tomorrow morning for consideration of this question, may I have your comments? If they do not reach me, I shall use my discretion, as your telegram suggests. At present my inclination, unless you instruct me otherwise and subject to changes occurring hourly in this situation, is to leave in abeyance this matter of publishing the nature of American cooperation with the League until Sze has received Nanking's answer.

I shall promptly telegraph you when it is decided whether the Council resolution will be published or not. If published, I assume you will yourself make the statement from Washington of the attitude of the United States to it or, if you wish me to make a statement, you will furnish me with suggestions in regard thereto. [Dawes.]

SHAW

793.94/2866 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 24, 1931—6 p.m.

[Received 6:06 p.m.]

794. From Ambassador Dawes: This evening Sze informs me that at 2:30 p.m. today a telegram was received from his Government and presumably was sent prior to the receipt of any information on the American attitude concerning the Council resolution; the telegram states the minimum conditions of China as follows:

- (1) Japan's immediate cessation of hostilities.
- (2) Withdrawal of Japanese troops within a definite but short period.
- (3) Supervision by the inquiry commission or by neutral observers of the evacuation.

The foregoing are declared as essential, otherwise the inquiry commission would be absolutely unacceptable. The Chinese Government suggests also that if the scope of the commission's investigation is extended to China proper as well as to Manchuria, then it might be extended also to Japan and Korea. [Dawes.]

SHAW

793.94/2874 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 24, 1931—7 p. m.

[Received 8:55 p. m.⁹⁰]

795. From Ambassador Dawes: Sweetser reports on the League's activities this morning as follows:

Drummond has been informed that a cable was sent by the three Japanese Ambassadors to their Government asking whether there were any truth in the press reports of Japanese intention to take Chinchow and stating that in such a case their task in Paris would be very difficult. Baron Shidehara in reply stated he had consulted the Japanese Minister of War and the Chief of Staff, who had told him they had no such intention. However, they had reserved the right to take any defense measures which might be necessary.

At 11 a. m. today the committee of 12 again met to consider the situation, when Briand reported having shown the draft resolution to the Chinese. Sze continued to press for Japanese evacuation but

⁹⁰ Telegram in three sections.

agreed, nevertheless, to communicate the text to his Government. He hoped to receive instructions either today or tomorrow. Drummond observed that Sze had especially emphasized with him the necessity of (a) having the Governments send observers to the spot, and (b) at once appointing negotiators for the evacuation. Drummond also said that he had informally transmitted the draft to the Japanese with the reservation that the draft was not final and was subject to Council amendment. He had the impression the Japanese would accept.

Lord Cecil said he thought the draft, especially the limitation on interference with the military, was not quite fully understood by the Chinese. He thought it would greatly help Sze if he understood that the commission could report regarding military phases but could not issue orders to the troops. As Cecil understood it, the commission could start work on its investigation and report concerning the military situation in Manchuria. If the commission reported in a certain way, the Japanese troop withdrawal could hardly avoid being expedited. The Chinese had from the very outset stressed the desirability of Japanese evacuation under supervision of League observers, and if the Chinese could realize that this proposal was a step in this direction they might be helped a good deal. He doubted that they understood the matter in this light; he thought they had obtained a good deal more than was realized by them; but he hesitated to press the proposal on them, for if they insisted too much on it this might frighten the Japanese. It was added by [Lord Cecil?] that Ito²¹ had called this morning to point out to him that at the meeting on November 21 the Japanese had not insisted, as previously, on discussing the fundamental points prior to evacuation; this was a definite change of attitude on the part of the Japanese.

Madariaga again stressed his distaste for the appearance even of the commission's not being entirely free to consider whatever it wished or being prevented by limitation on military matters from discussing the main question at issue, and this was, after all, the Japanese military occupation. He would like to have a sentence added that the commission would have every right to obtain any information necessary in order to report to the Council on the security of Japanese nationals and the protection of Japanese property. Cecil commented that this might have precisely the opposite effect by providing a basis for continuation of the occupation pending the completion of the commission's report; thereupon, Briand made the suggestion, with which the others agreed, that the point be met by a preface to the fifth article with the words "without prejudice to the execution of the above-mentioned measures".

The representative of Guatemala drew attention to the November 15 note of Japan on the protection of railway interests and said that the point of view expressed therein would cause disquietude all over Latin America where almost all the railways had been constructed through foreign financing. He did not believe they could admit the idea of military occupation for the protection of such rail investments. The 1907 Hague convention indeed forbade a state using force to recoup

²¹ Nobumi Ito, Counselor of the Japanese Embassy in France.

the debts due its nationals by another state. Briand agreed that the thesis was untenable and that it could not be advanced even indirectly.

There came up also the question of the American attitude. Prior to the meeting Leger²² had stated informally, though on Briand's behalf, that the United States could make a most useful contribution if it were able to make known its attitude on the draft proposal and, in the event of approval, to inform the Chinese accordingly. Briand mentioned this point at the end of the meeting and said the American representative desired to do anything he could to be useful, but Briand had hesitated to request him to call until there was something decisive to report. Briand felt that now, however, it would be very helpful to have an expression of the American views if the Government were able to make it, and so it might be wise for the matter to be taken up. Perhaps the best course would be for Drummond to attempt a visit this afternoon to see if the American representative could offer any cooperation or suggestion at this decisive moment.

[Dawes]

SHAW

793.94/2863 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, November 24, 1931—midnight.

[Received November 24—2:50 p. m.]

In view of alarming reports current as to imminent Japanese action at Chinchow Dr. Wellington Koo, Acting Minister for Foreign Affairs, has this evening told me and my British and French colleagues that his Government wished to sound our Governments out and if feasible make a formal proposition along following lines:

"In order to avoid any clash China is prepared as a temporary measure pending a general settlement of the Manchuria question, if Japan insists on withdrawal of troops in the Chinchow area to do so up to Shanhaikwan, provided Japan gives guarantees satisfactory to Great Britain, the United States and France, not to go into that zone leaving the Chinese civil administration intact including police."

In view of critical situation we undertook to commend this to our respective Governments and to ask for a speedy reply.

Repeated to Tokyo for information.

JOHNSON

²² Chef de Cabinet, French Foreign Office.

793.94/2864 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, November 24, 1931—midnight.

592. For Ambassador Dawes: Embassy's No. 792, November 24, 3 p. m.

(1) As bearing upon your problem, favorable news has just reached me from Tokyo.⁹³ Baron Shidehara together with the Minister of War and the Chief of Staff agree and have issued orders to the effect that there shall be no hostile operations in the direction of Chinchow. Shidehara also agrees to the clause in the draft resolution prohibiting hostilities on condition it is so phrased as to allow protection against marauding banditry. He asserts that the remainder of the troops will stay in Tsitsihar only for the few days required to succor the wounded and to pick up the dead. Therefore, there appears now to be no substantial likelihood of opposition by Japan to the Council proposal.

(2) When the Council proposal is compared with the Chinese counterproposal, the only irreconcilable elements of the Chinese plan are (a) the withdrawal time limit, and (b) the proposed conference of the powers, both of which appear impossible.

(3) I am, under these circumstances, a little afraid of too much American finesse. Briand is entitled, I think, to know the favorable reaction of the United States Government to his proposal in order to aid in getting it through. I should prefer having his proposal published before this Government's approval is published, but I should be ready to take the chance of leakage instead of risking failure on Briand's part for lack of American help. Actually I have crossed the bridge already, because just prior to receipt of Embassy's 792 the French Ambassador called to read me a digest of the proposal and inquired whether I approved, to which I said I did and added I had cabled you to this effect. Should the proposal fail by reason of opposition by China or Japan, it will be comparatively easy, I think, to focus responsibility where rightfully it belongs and to avoid criticism of the United States Government. I would rather have the public believe an honest conciliation proposal like this had failed despite active American assistance than for an absence of it, and the responsibility would rest all the more heavily upon the disputant which had caused such failure. Today I have already confidentially educated the leaders of the American press on the subject and believe they would help, as thus far they have uniformly done.

⁹³ See telegram No. 234, November 24, 10 p. m., *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 50.

(4) You may, under these circumstances, go ahead and act entirely in your discretion. Endeavor to have Briand keep the American approval confidential pending his receipt of the Chinese reply to Sze and until Briand has been able to decide in regard to putting the matter to a vote in the Council. When you learn the decision, you will know whether or not this Government's position should be made public.

STIMSON

793.94/2981

*The Chinese Ministry of Foreign Affairs at Nanking to the Chinese Legation*⁹⁴

[NANKING,] November 24, 1931.

Lately Japanese have been intensely circulating news that the Chinese troops at Chinchow will attack the Japanese troops and Chang Hsueh-Liang will declare war. Japan's intention is to launch immediate attack upon Chinchow. According to railway reports Japanese gunboat *Kuoa* arrived 23rd declaring to protect wireless station but evidently to help attack Chinchow.

793.94/2983

*The Chinese Legation to the Department of State*⁹⁵

The Manchurian situation is becoming more critical and grave every day. According to reports from Minister Tsiang at Tokyo, Japanese troops after having occupied Tsitsihar now plan to march northward to take Manchouli and southward to take Jehol. The apparent conciliatory attitude of Japanese diplomacy is to gain time for Japan's military operation. The Fourth Congress of the Kuomintang has adopted a Resolution containing the following points: (1) To call the attention of every nation to its obligations to international agreements, especially with the anticipation that the United States will assume the principal rôle in invoking the Briand-Kellogg Anti-War Pact and the Nine Power Treaty, (2) to reorganize the Government and to delegate to it the full and unqualified power so as to expose the ulterior motive of Japan in spreading false propaganda that the Chi-

⁹⁴ Copy of telegram handed by the First Secretary of the Chinese Legation to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on November 25, 1931.

⁹⁵ Substance of telegram from the Ministry of Foreign Affairs at Nanking, dated November 24, 1931, handed by the First Secretary of the Chinese Legation to Mr. Ransford S. Miller of the Division of Far Eastern Affairs on November 25, 1931.

nese Government does not command the confidence of the Chinese people.

WASHINGTON, November 25, 1931.

793.94/2894 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 25, 1931—2 p. m.
[Received November 25—12: 07 p. m.⁹⁶]

798. From Ambassador Dawes: Referring to your 592, November 24, midnight, which authorized me to act fully in my discretion. I asked Drummond, who has been representing Briand in conferring with me, to come to my office. Through him I have sent a statement to Briand, with the understanding it is not to be published before (a) all the Council members, other than China and Japan, have agreed upon the general plan of the resolution, and (b) the Council has published the text of its proposed resolution. Here is my statement:⁹⁷

“The United States Government approves the general plan of settlement embodied in the proposed resolution of the Government of the United States [*League of Nations Council?*] and has so informed both China and Japan. It has urged upon them acquiescence in the general plan embodied in the proposed resolution.”

It is definitely understood also that I am to make this statement to the public, not to the League, when Briand has notified me that my two conditions mentioned above have been carried out.

I followed the foregoing method in compliance with the spirit of your telegram and before Sze's reply has been received. Now it is left to the discretion of Briand as to whether the American announcement will be most helpful if made before or after his receipt of Sze's reply. I do not think the relation of Sze's answer to the timing of the announcement is of vital importance, because the American attitude is known in general to all parties. Personally, I feel that, if Sze's reply conveys China's agreement, which is not probable, an earlier announcement will have done no harm, while if Sze's reply proves unfavorable, the announcement will still afford China a fresh chance to reconsider in advance of the Council's public meeting and after world public opinion has had time to react to the announcement of specific cooperation between the United States and the League in order to obtain a peaceful settlement. [Dawes.]

SHAW

⁹⁶ Telegram in two sections.

⁹⁷ Quotation not paraphrased.

793.94/2902 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, November 25, 1931—3 p. m.

[Received November 26—1:24 a. m.⁹⁸]

Your 119, November 23, 6 p. m., through the Consul General at Nanking.

(1) Last evening in a conversation with Dr. Wellington Koo I gave him the substance of your remarks on the Council's proposed resolution as cabled to Ambassador Dawes.

(2) I gave him also the Department's comment on the Chinese counterproposal.

(3) The not unreasonable fear is expressed by the Chinese that by the time any commission reaches Manchuria from Europe, Japan will have been in undisturbed occupation there long enough to encourage the organizing of an independent government prepared to recognize the position of Japan in Manchuria. The Chinese have hoped the League would consider this possibility and would act to forestall it.

(4) I am at a loss to understand the report in Paris that I have told the Chinese Government "that the United States is ready to go much farther than the League of Nations to support the Chinese position." At no time have I committed myself to them or to anyone else respecting the position I thought my Government would adopt on this question.

(5) My understanding has been that the United States Government has been wholeheartedly supporting the efforts of the League in this matter, and this I have told the Chinese.

(6) The continuing Japanese advance in Manchuria, openly in defiance of all efforts by the League and the United States to bring about an atmosphere conducive to a solution of the differences between the two countries, bears terribly on the Chinese. There was as little excuse for driving Chinese soldiers out of Tsitsihar as for seizing Mukden the night of September 18, and now we are informed of Japanese preparations to expel the Chinese from Chinchow, thereby eliminating the last vestige of Chinese control within Manchuria. In view of all the circumstances and of Japan's commitments under the League Covenant, the Nine-Power Treaty and the Kellogg Pact, I am unable to escape the feeling that this conduct is unconscionable. The Chinese, rightly or wrongly, have looked for assistance from the nations party to the above agreements, and so far Chinese confidence in these agencies has had no result in spite of the September 30 and October 24

⁹⁸ Telegram in two sections.

resolutions of the League. Instead of amelioration of the condition after a period of 2 months, the Chinese find Japan successfully completing the destruction of all Chinese authority in Manchuria. They have seen an utter and shameless defiance by Japan of every effort made by the League, and it would seem that actually Japan has timed its every advance in a way so as to indicate to China and the world the low esteem in which it holds the League of Nations and world opinion. Great restraint, it seems to me, has been and is being exercised by the Chinese in the face of such provocation as they have had, and most emphatically do I feel that the powers owe it to themselves to take measures in all seriousness to prevent not only the complete destruction of confidence in the intentions and support behind the League Covenant, the Washington treaties, and the Anti-War Pact, but also the complete destruction of Chinese Government.

(7) The Chinese are in desperation. Japanese activities, unrestrained by the rest of the world, are fanning among the younger Chinese generations hatreds which will some day produce very dangerous fruit. Whatever Japan's grievances may have been against China before September 18, there is nothing I know of done by China since then which would justify the program Japan has insisted upon following.

JOHNSON

393.1154 (M) Andersen, Meyer & Company/2 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, November 25, 1931—3 p. m.

437. Your 862, November 3, 3 p. m.

1. The Consul General at Mukden should continue to bring to the attention of the Japanese Consul General the American interests in the Antung Electric Light Plant and the loss being suffered by the American interests as a result of the closing of the plant.

2. This matter is being taken up informally with the Japanese Ambassador here.

STIMSON

793.94/2895 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 25, 1931—4 p. m.

[Received November 25—1:05 p. m.]

799. From Ambassador Dawes: [Paraphrase.] The so-called Chinese counterproposal has just been sent by Sze to Briand. It must, of course, be assumed that Sze was instructed by his Government to do

this following receipt through both Johnson and myself of the statement of the United States attitude. You will observe that references to the United States are eliminated in this counterproposal and also that Briand has not yet been asked by Sze to present the document to the League Council.

The text of the counterproposal reads as follows: [End paraphrase.]

"Article 1. Immediate cessation of all military activity in any way tending to aggravate the situation.

Article 2. Withdrawal of Japanese forces within the railway areas; such withdrawal to begin at once, proceed progressively and be completed within 2 weeks.

Article 3. China to assume full responsibility for the security of the lives and property of Japanese nationals in Manchuria. In this connection China is ready to cooperate in any reasonable measures looking to the establishment of additional guarantees of security by means of neutral aid or otherwise.

Article 4. The details of evacuation and the taking over of territory, as well as the measures to safeguard security of Japanese life and property in Manchuria, to be subject of discussion and agreement between China and Japan in the presence of neutrals representing the Council.

Article 5. The creation by the League of a neutral commission to supervise the evacuation and the taking over of the evacuated territories and to study and report upon the situation in Manchuria for the information of the Council and of the conference hereinafter mentioned in paragraph 7.

Article 6. The mutual reaffirmance by both China and Japan of the principle of respect for international treaties, especially the Covenant of the League of Nations, the Paris Pact for the Renunciation of War, and the Washington Nine-Power Treaty.

Article 7. The convocation of a conference of all interested powers to discuss and settle all questions between China and Japan relating to Manchuria on the basis of the principles embodied in the Covenant of the League of Nations, the Paris Pact for the Renunciation of War and the Washington Nine-Power Treaty, with a view to safeguarding peace in the Far East and promoting the economic development of Manchuria through international cooperation."

[Dawes]
SHAW

793.94/2863 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, November 25, 1931—4 p. m.

120. For Minister Johnson: Your November 24, midnight. Since the objective "in order to avoid any clash" is stated by Dr. Koo, it is

my feeling that, "as a temporary measure pending a general statement [*settlement?*] of the Manchuria question", the withdrawal by the Chinese Government on its own initiative of its troops to Shanhaikwan would be well advised. Undoubtedly the situation is very delicate, and so long as Chinese forces remain at Chinchow, it is possible there may be a clash and an ensuing conflict to aggravate the situation and to result probably in further loss of life and the compulsory withdrawal of Chinese troops. It would, I feel, be a sound preventive step for the Chinese Government at once to withdraw these forces, and I offer this only as a friendly suggestion, not as formal advice, solely made in reply to the question Dr. Koo put to me.

As to the question of guarantees, time is lacking to commence an attempt to complete negotiations which might be needed. The question of the occupation by Japan of South Manchuria will have to be dealt with upon its merits and in its entirety, upon the basis of both facts and law, meaning treaty obligations. The problems thus presented are of solicitous interest to the whole world which is struggling to solve the question. As yet nothing can be guaranteed except the continuation of every possible effort for the prevention of war and the achievement of a solution by peaceful means.

You should, by exercising your utmost tact and discretion, take this up immediately with Dr. Koo, informally and orally.

STIMSON

793.94/2823 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, November 25, 1931—5 p. m.

121. For Minister Johnson: My 119, November 23, 6 p. m. To inform you as to how this matter was presented to the Japanese Government, I have asked Ambassador Forbes to repeat expeditiously to you my two telegrams dated November 23 to him and his reply dated November 24.⁹⁰

In your discretion you may inform Dr. Koo orally as to the facts.

STIMSON

⁹⁰ For Department's telegrams No. 240 and No. 241 of November 23, and the Ambassador's reply, telegram No. 234, November 24, see *Foreign Relations, Japan, 1931-1941*, pp. 48-50.

793.94/2901 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 25, 1931—8 p. m.
[Received November 25—4:10 p. m.]

803. From Ambassador Dawes: Dr. Sze has just handed me the following statement which he has sent to Drummond for immediate transmission to the Council:

"Positive information of the utmost urgency just received from my Government indicates that notwithstanding Japanese assurances to the contrary the Japanese Army is converging on Chinchow. A serious conflict therefore impends between the Japanese and Chinese forces which China earnestly wishes to avoid and it would seem that it can be prevented only if without any delay the Council interposes some decisive action. My Government accordingly asks the Council at once to take all necessary steps for the establishment of a neutral zone between the present stations of the Chinese and Japanese forces; such zone to be occupied by British, French, Italian and other neutral detachments under Council authority.

In such circumstances China could and would if requested by the Council in the interest of peace withdraw her forces within the Great Wall.

Please bring this communication to the immediate attention of the Council."

[Dawes]
SHAW

793.94/2900 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 25, 1931—10 p. m.
[Received 11:30 p. m.¹]

804. From Ambassador Dawes: Following is Sweetser's report.

"The twelve members of the Council meeting at 5 o'clock today in entire privacy at Drummond's suggestion in order to avoid any premature publicity, took note of information received as to the views of the United States and decided to issue a résumé of the draft resolution as it now stands. The Council members also considered a statement from Sze.

Meeting shortly after in ordinary private session, Briand drew attention to a communication from the Japanese speaking of a Chinese concentration at Chinchow and asking that the troops be withdrawn. This was in the form of a request and not a demand but it seemed to Briand a little strong to ask that Chinese troops withdraw from Chinese territory. Cecil then stated that Sze had told him that they could not withdraw unless neutral troops took their place. Briand

¹ Telegram in two sections.

said that a note had been received to that effect asking that a neutral zone be established under control of foreign troops in which case they would withdraw behind the Great Wall. Already he noted a number of foreign observers were on the spot. Evidently Koo was preoccupied to avoid armed contact and was taking only defensive measures.

Cecil thought that special action should be taken by all the Governments including the United States if it were possible. The seizure of a great town like Chinchow would be a deliberate insult at this moment when the Council was meeting to elaborate plans for a settlement. Briand then proposed two things: first, that he as President send a new appeal [to] both parties in special relation to Chinchow; and second, that the individual Governments intervene in the same sense and also send observers if possible. Accordingly an identic cable was sent this evening by Briand and [*sic*] to both Governments in the name of the Council pointing out that the Council's efforts for peace would be vain if new incidents occurred and drawing special attention to the situation around Chinchow. Already certain Governments had sent observers there; the responsibility however rested with the two Governments to prevent further loss of life.

The Council members then took up again the draft resolution to which some slight verbal changes were suggested to make it still clearer that the commission while not in[ter]fering with actual military movements was nevertheless fully entitled to report upon the military side of the situation as well as the other sides.

A draft statement to the press summarizing the resolution as it now stands was then presented. Briand pointed out that it would be better to give a summary on good authority than to give the full text as thereby the Council members would not be bound to actual phraseology.

Madariaga however once again expressed the disquietude felt by himself and certainly shared by several other members of the Council lest the publication of any such statement might appear to commit the Council members and thus in case China refused put them in the position of voting against her. This would reverse the situation in that previously Japan had been alone but in this contingency China might be isolated.

Both Briand and Cecil spoke against this interpretation. The former stressed the fact that the Council was still working under article 11 and that necessarily it must make the effort to secure unanimity. The case was very exceptional, given a Japanese-controlled railway on Chinese soil. No one not even the Chinese had suggested any other article than 11; the commission would be of great value to China; it would even provide a kind of internationalization for Manchuria.

Cecil thought the Council members must get on to a result. They had previously approved a draft resolution, given it to the parties 48 hours ago, and ought to inform the public of its general lines. World opinion was somewhat mystified by conflicting reports; the Council must shortly have another public meeting.

Briand also mentioned for the first time some kind of general statement to accompany the draft resolution. It was not quite clear what he meant; Cecil however urged that the first thing was to publish the communiqué tonight reserving until later any additional

explanation of the juridical side of the matter which obviously must be gone into with great care.

The next meeting of the Twelve was fixed for 4 o'clock tomorrow with the possibility of a public session on Friday at 10:30. It was expected that the Chinese reply would be received during the course of the day tomorrow."

[Dawes]

SHAW

793.94/2899 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 25, 1931—11 p. m.

[Received 11:14 p. m.]

805. From Ambassador Dawes: Following is communiqué issued by the League tonight. Shortly afterwards I gave out statement contained in my 798, November 25, 2 p. m.

"In the hope of establishing a resolution to be adopted unanimously, including the votes of the two parties, in conformity with article 11 of the Covenant, a draft scheme has been drawn up which deals separately with the withdrawal of the Japanese troops within the railway zone and the appointment of an international commission.

The substance of the scheme, which has been communicated to the two parties, is as follows:

The resolution of September 30th is recalled and reaffirmed. The two parties declare that they are solemnly bound by that resolution. The two Governments are accordingly invited to take all steps necessary to assure its execution so that the withdrawal of the Japanese troops within the railway zone—a point to which the Council attaches the utmost importance—may be effected as speedily as possible.

The two parties undertake:

To give to the commanders of their respective forces the strictest orders to refrain from any initiative which may lead to further fighting and loss of life, and to take all measures necessary to avoid any further aggravation of the situation.

The members of the Council are invited to furnish it with information received from their representative on the spot.

It is proposed to appoint a commission to study on the spot and to report to the Council on any circumstances which, affecting international relations, threatens to disturb peace between China and Japan or the good understanding between them on which peace depends. China and Japan would each be represented by an assessor.

The appointment and deliberations of the commission would not prejudice in any way the engagement taken by the Japanese Government and correlatively the resolution of September 30th regarding the withdrawal of the Japanese troops within the railway zone."

[Dawes]

SHAW

793.94/2903 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 25, 1931—12 p. m.
[Received November 25—11:40 p. m.]

806. From Ambassador Dawes: Following is text of identic telegram addressed by Briand as President of the League Council this afternoon to the Chinese and Japanese Governments.

"On behalf of my colleagues on the Council I have the honor to make the following appeal to the Japanese and Chinese Governments. The Council is striving to achieve a peaceful settlement of the dispute but its efforts would be in vain if fresh engagements were to occur between Chinese and Japanese forces. The Council specially calls the attention of the two Governments to the situation existing in the Chinchow region. Already certain Governments have decided to send observers there. But it is for the two parties to give the commander[s] of their respective forces the strictest orders to refrain from any action which might lead to further engagements and further loss of human life. My colleagues and I rely on the will of the two Governments to take all needed measures for this purpose urgently."

[Dawes]
SHAW

793.94/2910 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, November 26, 1931—1 p. m.
[Received November 26—8:55 a. m.]

1010. The Consul General at Mukden on November 25, 2 p. m., reports as follows:

Every indication points to an early drive by the Japanese against Chinchow for the purpose of encompassing the total diminution of Marshal Chang Hsueh-liang's power and the Nanking Government's influence in Manchuria. Preliminary moves are now under way to create the usual Japanese influence. Japanese military occupation of strategic centers will insure domination by Japan of the whole region and will enable Tokyo to await patiently and confidently China's acceptance of Japan's demands. With a free field, the Japanese efforts to establish and consolidate independent régimes will be strengthened; these independent movements are not spontaneous but fostered; and an autonomous Manchuria under the influence and protection of Japan seems extremely probable. The armed forces of these independent régimes are totally inadequate in the face of rampant banditry now in existence (restrictions on formation of such forces are being placed by the Japanese), so that Japan has a reasonable though self-imposed

pretext to continue military occupation of Manchuria pending a settlement of the situation to Japan's satisfaction.

For the Minister:
ENGERT

793.94/2911 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, November 26, 1931—5 p. m.
[Received November 26—12:40 p. m.]

Your 120, November 25, 4 p. m., to the Consul General at Nanking. The substance of this message I communicated this evening to Dr. Wellington Koo. I carefully pointed out that this was not formal advice but a friendly suggestion on your part. He made a note of what I said. Koo stated that for the Nanking Government to withdraw Chinese troops from Chinchow would be very difficult in the face of the popular attitude at present. He called attention to the fact that this city of Nanking is at this very moment full of thousands of students arrived from Shanghai, Hangchow, and other places, while still more are coming, all of them demanding that President Chiang Kai-shek sign an undertaking to proceed to the north and to stay there until the recovery of occupied territory. Koo referred also to the League's unwillingness to fix a time limit for the evacuation of Japanese troops from Manchuria, and he said the Government was getting such a demand from all sides in China. To agree to less here would involve great difficulties. Again Koo expressed himself as quite concerned over the movement to set up an independent régime in Manchuria; he said this was gaining ground.

JOHNSON

793.94/2904 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 26, 1931—9 p. m.
[Received November 26—6:53 p. m.]

807. From Ambassador Dawes: [Paraphrase.] Sweetser's report is summarized as follows :

Today Briand confidentially reported to the Council's twelve members his very promising conversation this afternoon with Sze. The latter has received his instructions and understood they give him considerable liberty, though they have not been fully decoded.

Briand understands that China will be able to negotiate upon the basis of yesterday's announced general lines. [End paraphrase.] [Briand] also reported a conversation with Yoshizawa who left an *aide-mémoire* regarding the very serious situation around Chinchow and the necessity of immediate steps to obviate a collision. The *aide-mémoire* said: "Such an eventuality would be particularly unfortunate at a moment when, thanks to the Council's efforts, a satisfactory solution of the Manchurian incident seems to be in sight."

In view of communications from both Governments on this subject it was agreed that those Governments with observers at Chinchow might instruct them to examine together the possibility of establishing a neutral zone in order to prevent a collision.

Scialoja announced that Italy was ready to send troops to such a zone. No immediate comment was forthcoming; Cecil later said he had consultation [*consulted*] his Government on the subject.

Finally, in the hope that agreement may be reached on the general lines announced, a drafting committee was appointed to meet tomorrow at 10:30 consisting of Briand, Cecil, Madariaga and Colban.

[Dawes]
SHAW

793.94/2912 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 26, 1931—11 p. m.
[Received November 26—10 p. m.]

808. From Ambassador Dawes: I have just received the following letter from Drummond:

"May I draw your attention to a point in yesterday's discussion of the twelve members of the Council other than Japan and China which I think may have a special interest for your Government.

After it had been decided that the President of the Council should send a telegram to both the Chinese and Japanese Governments in connection with the threatening situation at Chinchow, the suggestion was made that the various Governments might in addition and on their own responsibility take individual action. Two possibilities therefor were suggested: first, the despatch of telegrams to the two Governments exhorting them against any action which would aggravate matters in that region; and, second, the despatch of as many observers as possible to the vicinity of Chinchow. The Council finally agreed that it would be very helpful if the Government of the United States felt itself able to take independent action on these lines at the same time as the other Governments."

[Dawes]
SHAW

793.94/2921 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, November 27, 1931—4 p. m.

[Received November 27—10:05 a. m.]

Your 121, November 25, 5 p. m., to the Consul General at Nanking.

(1) The facts therein I communicated orally this morning to Dr. Wellington Koo. He thanked me for the information.

(2) He reverted to his statement about China's being obliged to insist upon a time limit for Japanese evacuation of troops in Manchuria, and he said the Government could not accept less than this, since Chinese public opinion was stirred up on the subject to such an extent that no Government could survive if it agreed to less.

(3) The British Minister informed me confidentially today that Koo in a conversation with him yesterday had suggested, while discussing the question of the necessity for an evacuation time limit, that a possible formula which might be used to save the situation would be as follows:

(a) A fixed period, of course as brief as possible but open to discussion.

(b) The inquiry commission to be left to decide on the adequacy of measures to protect life and property in Manchuria. Should the commission decide the measures were not adequate, it could recommend other steps, meaning the postponement of evacuation.

(4) In my opinion, from the viewpoint of China this question is a very serious one, for the Government's very existence depends, I am convinced, upon something definite being done regarding the period for Japanese troops to remain in occupied Manchurian territory.

(5) As to Chinchow, Koo informed me that his Government appreciated your friendly suggestion but felt, in view of the Japanese attitude, that Chinchow could not be abandoned without some guarantee that this area would not be occupied by the Japanese. He said the Chinese troops at Chinchow now were under orders to avoid any activities of a provocative nature, but they would resist if attacked.

JOHNSON

793.94/2934a : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, November 27, 1931—1 p. m.

123. For Minister Johnson: You should send urgent instructions to the Military Attaché, who I understand now is in the Chinchow neighborhood, to cooperate fully with the other foreign military ob-

servers there in examining the possibility that some means may be found which is calculated to prevent any troop collision between the Chinese and Japanese in the Chinchow region and that liaison be established with the military commanders of both forces with a view to making the necessary arrangements.

STIMSON

793.94/2924 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, November 27, 1931—4 p. m.

[Received November 27—1:30 p. m.]

The following supplements my November 26, 5 p. m., reporting the statement made by Koo: Regarding Chinchow, Koo said that information received by the Chinese Government led the Government to believe that preparations for an attack were being carried on by the Japanese but that the attack would be deferred until the conclusion of the Council meeting in order that Japan might be able to induce the delegates to pass a mild resolution of the sort proposed by the Italians. He said that the Chinese Government could not understand how General Dawes and the Council delegates could be misled regarding the futility of a general assurance from Japan that troops would be withdrawn, previous assurances of the sort accepted in the resolutions of September 30 and October 24 having been flagrantly violated. To the Chinese Government the issue seemed quite plain. The action of Japan in sending troops to occupy regions in Manchuria was either right or wrong. If the League believed it to have been wrong, a clear-cut denunciation should issue from the Council; if right, the Council should say so, in which case China would know where she stood. Koo said Chinese popular feeling now demanded affirmative action for recovery of occupied regions either in the form of time limit set by the Council for evacuation or as alternative declaration of war by the Chinese Government. Koo seemed very despondent.

JOHNSON

793.94/2930 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 27, 1931—5 p. m.

[Received 5:35 p. m.²]

811. From Ambassador Dawes: Following report is from Sweetser:

"Sze called on Briand this noon to again urge the fixation of an actual date for evacuation even if that date had to be conditional.

² Telegram in two sections.

He stressed the necessity of this for Chinese opinion and some discussion ensued as to whether any method could be found for giving satisfaction. One suggestion now being considered is that the President of the Council in his declaration after the adoption of the report might express the hope that Japanese troops would be withdrawn by the time the commission arrived. Should, however, the question of security not have been satisfactorily settled by then, the commission would naturally consider this question first of all. It was pointed out to Dr. Sze that as the whole emphasis of the Council's resolution would be placed on evacuation it would be natural for the commission to begin its work in Manchuria and in connection with that subject.

Sze also expressed anxiety regarding the situation at Chinchow and presented a telegram from his Government that an imminent attack was feared and that small neutral detachments, if sent by only one member of the Council, seemed to be essential. Briand assured him that the Council members were giving very serious consideration to the Chinchow situation and informed him that the British and French representatives had last night sent telegrams in accordance with the form suggested yesterday. He also said that Shidehara had told the French Ambassador in Tokyo that after consultation with the Minister of War, strict orders had been given to the Japanese commanders in the field not to attack Chinchow.

Sze's letter to the Secretary-General mentioned above was as follows:

'I have been instructed to bring to your immediate attention the following telegram which I have just received from my Government—

"An imminent attack on Chinchow is feared in view of the information just received from the highest and most reliable sources of a neutral power. The position at Chinchow justifies the most serious apprehensions and may give rise to grave events at any moment. We are informed that the reports from British observers show that there has been no concentration of Chinese troops nor any troop movements from within the Great Wall. In view of the constant allegations by the Japanese to the contrary it is urgent and essential that this information should be published. The whole work of suppressing bandits will be done by the Chinese police so that there would be no danger of complications for neutral detachments. We consider that such detachments should be sent even if by only one member of the Council to see that a neutral zone is respected and that such a zone should be established with all possible speed by neutral observers. Please lay these facts before the Council as a matter imperatively requiring immediate action in view of the alarming situation."

I venture to suggest in the light of the facts revealed by this message that even the instructions given to the neutral observers on the spot may not suffice to avert a catastrophe unless the observers, if in their judgment the local situation so required, could have at their disposal small neutral detachments to organize and supervise the neutral zone effectively.

I should be grateful if you would circulate this letter to the President and members of the Council other than the representatives of the parties."

[Dawes]
SHAW

793.94/2919 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 27, 1931—7 p. m.

[Received November 27—9:45 a. m.]

1015. American Consul General at Tientsin just telephoned that Chinese authorities have suggested to foreign consuls whose governments have troops stationed in Tientsin that a considerable area north of Japanese Concession be policed by foreign forces as the Japanese have demanded the withdrawal of Chinese police from there. The question is to be discussed by consular body tomorrow.

Repeated to Nanking.

For the Minister :

ENGERT

793.94/2931 : Telegram

The Chargé in France (Shaw) to the Secretary of State[Paraphrase³]

PARIS, November 27, 1931—8 p. m.

[Received November 27—7:07 p. m.]

812. From Ambassador Dawes: This afternoon Matsudaira called. The Drafting Committee appears to be considering whether to increase the number of members on the proposed commission from three to seven. Matsudaira feels a larger commission would be unwieldy, and he is somewhat apprehensive lest some of the smaller powers without material interest in the situation should wish to be represented. In his opinion, the commission had best consist of three members, American, British, and French. He would have no personal objection to an Italian in addition, but he has not yet heard on this point from Tokyo.

Reasons given in the Council for the larger number were the embarrassing problem which would arise in case of illness of one of the three members and the possibility also of having to form subcommittees for the purpose of covering a large area. Matsudaira commented on this that the smaller the commission is, the greater will its authority be.

Matsudaira is discussing another point with the Drafting Committee, namely, the tentative wording of the resolution :

"The two parties undertake to give the strictest orders to the commanders of the respective forces to refrain from any initiative which may lead to further fighting and loss of life."

³ Quotations not paraphrased.

As it stands, the clause, Matsudaira says, would be subversive of the constitution of Japan, and he wishes the wording to be as follows:

"The two parties shall refrain from any initiative which may lead to further fighting and loss of life."

Though the Council has not decided as yet concerning the number of members for the proposed commission, it is Matsudaira's impression that a commission of seven members is favored. He is quite certain that his Government will object to a large commission. This information he gives confidentially, because it embarrasses him to mention eliminating the smaller powers as such. [Dawes.]

SHAW

793.94/2929: Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 27, 1931—9 p. m.

[Received November 27—8:36 p. m.⁴]

813. From Ambassador Dawes: Following report from Sweetser:

"Monsieur Briand when asked privately today his opinion of the effect of the American announcement⁵ said it had come just at the right moment. It had been, he added, decisive.

At the meeting of the 12 members of the Council, other than the representatives of China and Japan, Briand read the Chinese note on Chinchow distributed this morning. Cecil said he had telegraphed his Government not only urging that observers be sent as had indeed already been done but suggesting also that they cooperate with French, Italian, American, or other observers who might be there. He then distributed the following note:

"The British delegate has inquired of His Majesty's Government whether it would be possible to instruct His Majesty's Minister in Nanking to discuss with his colleagues arrangements for a regular concerted organization of observers with close liaison between the different nationalities and collation of reports and with sufficient observers held in readiness to proceed to localities which may be indicated as danger points.

It seems essential that in case of need concerted action should be taken as rapidly as possible and the British delegate ventures to suggest to his colleagues that they might propose to request their Governments to send similar instructions."

Cecil estimated there were already nine observers in Chinchow: two British, two French, two Italian, one American, one German and one Spaniard. Since they had arrived, Briand remarked, the character of the news seemed to have changed; there were not so many alarmist reports as constantly appeared before. Both he and Cecil, however,

⁴ Telegram in three sections.

⁵ See statement quoted in telegram No. 798, November 25, 2 p. m., from the Chargé in France, p. 561.

expressed disquietude on the possibilities in that region; it is evident the Council is watching it with alarm lest the diplomatic settlement which Briand again today thought was close at hand be made impossible. The question of sending troops, however, seemed even less likely today with Cecil's statement that he imagined this might present considerable military difficulty.

Briand reported optimistically but not conclusively on his conversation with Sze this morning. The Chinese representative, he said, had not been very precise; his Government was under very heavy pressure; he must endeavor to have some kind of satisfaction for his public opinion; he again stressed the need of some kind of delay [*date?*] regarding evacuation. Briand showed how difficult it was to fix a delay [*date?*] in the circumstances and stressed the fact that the commission would give a good deal of elasticity to the situation. He urged that the commission would be of enormous advantage to China in that it would establish a real international stake in China's situation and provide for an actual method for making operative the Nine-Power Pact, especially with its phrase as to 'administrative' integrity. After all, he said, China's present situation is vague, obscure, ill and, [garbled?] as shown by the emergence of the famous fundamental points, which it had since been one of the successes of the present negotiations to push into the background. He thought it an enormous gain that Japan had announced it had no territorial or other ambitions and felt that if this gain could be solidified it would be very important to the whole future of the Far East. Indeed, he thought that the adhesion given by the United States to the Council proposals was due to its preoccupations from the very first moment lest Chinese territorial integrity be endangered. This would also of course have involved article X.

Briand said he had told Sze that it might be possible to find some kind of formula which would help him either by connecting evacuation with the commission or by giving the commission instructions in this sense. He agreed strongly with a suggestion by Fotitch that the Council must continue to keep the matter within its own hands and not allow the creation of the commission to give the impression that it has given it no discretion. Cecil hoped that something definite of this sort might be put into the President's statement. In connection with the general public interest in the matter, Briand again expressed his surprise at the every large number of telegrams he had received from all parts of the world. These telegrams showed that public opinion was widely aroused but at the same time it realized the complexity of the situation. The commission idea had been particularly well received; it was recognized as capable of solving many difficulties.

The Drafting Committee will meet tomorrow morning to consider Sze's suggested changes."

[Dawes]

SHAW

793.94/2933 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 28, 1931—10 a. m.

[Received November 28—3 a. m.]

1017. Legation's 1007, November 26, 8 a. m.⁶ Military Attaché at Chinchow reports that according to reliable information received from German Consul who arrived 27th from Mukden, Japanese will submit ultimatum in immediate future to Young Marshal demanding evacuation of Chinchow and withdrawal of troops inside Wall. He states there is no evidence of active preparation to resist Japanese advance except trenches covering south end of bridge over Taling River and that the report that the activity of the Chinese forces this area to be occupied by the Japanese is ridiculous.

For the Minister:

PERKINS

793.94/3066

Press Release Issued by the Department of State on November 28, 1931

When asked by representatives of the press to comment on press reports of a statement issued by the Japanese Foreign Office today,^{6a} the Secretary of State said:

"All I have to say about that is that you gentlemen have the record of what I said at my press conference yesterday. From that record you can see for yourselves that the Foreign Office has been entirely misinformed of something I not only did not say yesterday, but never said."

The record of the press conference of Friday, November 27, shows that the Secretary of State spoke to the correspondents as follows:

"On the 23d of November I asked my Ambassador in Tokyo to tell Baron Shidehara, the Foreign Minister of Japan, that I had seen with great apprehension press reports giving the impression that the Army commanders of Japan were planning military expeditions against the forces of China in the neighborhood of Chinchow and that I sincerely trusted that there was no basis for that report. The following day, November 24, I was assured by Baron Shidehara, the Foreign Minister of Japan, through Ambassador Forbes that he and the Secretary of War and the Chief of Staff were all of them agreed that there should be no hostile operations toward Chinchow and that military orders to that effect had been issued. In view of that, it is difficult for me to understand the press reports about the advance of General Honjo's Army."

⁶ Not printed.

^{6a} See telegram No. 239, November 28, 8 p. m., from the Ambassador in Japan, *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 51.

793.94/29453

Memorandum by the Secretary of State

[WASHINGTON,] November 28, 1931.

The Japanese Ambassador said he had come down to give me some fragments of hopeful news. In the first place he told me that the evacuation of Tsitsihar was practically completed; that it had taken a long time, owing to some 300 frost-bitten troops who had to be looked after carefully; and that now there were left there only two companies.

The Ambassador then told me that he wanted to reassure me about the movement on Chinchow; that he had every reason to believe that that had been stopped and that the troops which had been advancing towards Chinchow had in some measure returned. I pressed him on this point as to the date of his reports and he asserted his latest report, that he told me confidentially was from their Military Attaché, was later than my last report which was dated November 27, at 7:00 p. m.

The Ambassador went on to ask me whether I had heard about the suggestion for evacuation made by the Chinese Minister, Wellington Koo, and produced two papers, one being a suggestion made by Koo, and the other the reply of the Japanese Government, which are annexed hereto as "A" and "B" respectively. He said he thought this was of great importance.

I then brought up the report through Tokyo about the statement made by the Foreign Office based on a report of what I said yesterday. The Ambassador said he had heard it but that he attached very little importance to it. I showed him the copy of the alleged statement made by me which I had just received from Forbes, attached to his message No. 239, of November 28, 8:00 p. m.⁷ I asked the Ambassador to read it and asked him whether he believed I had ever said anything like that. He said no, of course not. I then told him that I had denied it and showed him the copy of the telegram of November 28th which I had sent to Tokyo⁸ giving what I had actually said, and let him read that. He said that the matter was of little importance in his opinion, except that he was very sorry that the spokesman of the Foreign Office had apparently lost his head and made an attack on me. I told him that I had not supposed the original despatch to me was confidential because it had not said in the body of the message that the remarks by Shidehara to Forbes were confidential, and had only contained the message at the top. He told me not to worry about that; that he would straighten it out.

H[ENRY] L. S[TIMSON]

⁷ *Ibid.*, p. 51.⁸ Telegram No. 248, November 28, 2 p. m., *ibid.*, p. 54.

Annex A

SUGGESTION MADE BY THE CHINESE [ACTING] MINISTER FOR FOREIGN AFFAIRS TO THE REPRESENTATIVES OF GREAT BRITAIN, THE UNITED STATES AND FRANCE AT NANKING ON NOVEMBER 24, 1931^a

Pour éviter tout acte d'hostilité, et si le Japon insiste sur la nécessité du retrait des troupes Chinoises de la région de Kinchow jusqu'à Shanhaikouan, la Chine est prête à accéder à ce désir. Et ainsi entendu qu'il ne s'agira que d'une mesure temporaire en attendant le règlement général de la question de Mandchourie intervenir, et sous les conditions suivantes:

Le Japon garantirait à la France, l'Angleterre et l[es] États-Unis que ses troupes ne pénétrerait pas dans cette zone où l'administration Chinoise continuerait de fonctionner, police comprise.

Annex B

REPLY OF THE JAPANESE GOVERNMENT HANDED TO THE FRENCH AMBASSADOR AT TOKYO ON NOVEMBER 27, 1931

The Japanese Government share with the French Government the earnest hope that hostilities between the Japanese and Chinese forces may be averted in the region of Chinchow. Accordingly, should China withdraw her troops entirely from Chinchow and the neighborhood to Shanhai-Kwan and places west thereof, and maintain only the administration (including the police) of the district from Chinchow to Shanhai-Kwan, the Japanese Government are ready to undertake in principle that the Japanese troops will not penetrate into the zone thus evacuated by the Chinese troops, unless in the unlooked-for event of some serious emergency arising to jeopardize the security of the lives and property of Japanese subjects in north China and the safety of the Japanese garrisons stationed there. The Japanese Government are prepared to cause the competent Japanese authorities at any time to discuss locally with the Chinese authorities of the district the exact definition of the line above referred to, and the details relating to the execution of this arrangement.

793.94/2967c: Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

[Paraphrase]

WASHINGTON, November 28, 1931—4 p. m.

249. I learn from Paris that there are now at Chinchow some 11 observers, representing various Governments, including the British,

^a For English version of this document, see telegram of November 24, midnight, from the Minister in China. n. 558.

French, and Italian. The American Military Attaché arrived there from Peiping on November 24.

Colonel Margetts has received instructions "to cooperate fully with the other foreign military observers there in examining the possibility that some means may be found which is calculated to prevent any troop collision between the Chinese and Japanese in the Chinchow region and that liaison be established with the military commanders of both forces with a view to making the necessary arrangements." I understand Colonel McIlroy now is at Mukden, and if it can be arranged without embarrassment or inconvenience, I should like him to join Margetts and to cooperate with the latter on the mission above indicated and on the general mission of observation. The War Department, which I consulted, agrees with me in hoping that McIlroy will do this, provided he feels, in his careful discretion, he can do it without embarrassing his relations with the Japanese and the mission in which he is, upon their invitation, engaged. He should report his decision here.

You will please closely paraphrase this message to McIlroy, transmitting to him such instructions as you may desire to add.

STIMSON

793.94/2939 : Telegram

The Consul General at Tientsin (Lockhart) to the Secretary of State

TIENTSIN, November 28, 1931—5 p. m.

[Received November 28—9:50 a. m.]

The following telegram has been sent to the Legation and to Nan-king:

"The Chinese on their own initiative have notified Japanese military authorities this afternoon that they will at once withdraw their armed police to a safe distance from the Japanese Concession. If this plan is accepted by the Japanese, as it undoubtedly will be, the situation ought to be relieved. Consular body has recommended its acceptance and urged both sides to discontinue firing and show a conciliatory attitude.

There was heavy rifle, machine-gun and trench-mortar firing again this morning beginning at 2 o'clock, alleged from both sides. About 200 additional Japanese marines landed yesterday and today and this has given rise to rumors of an impending attack on the native city tonight. Japanese state, however, that they intend to confine their activities to defending their concession and will not go into Chinese territory."

LOCKHART

793.94/2996

*The Assistant Military Attaché in Japan (Cranford) to the Adjutant General, United States Army*¹⁰

TOKYO, November 28, 1931.

No. 199. McIlroy reports Japanese military in Manchuria desires Chinese Government free of Nanking with Japanese advisers and soldiers. Also reports 13th Battalion being used against new objective. Presumably Chinchow. Korea Brigade and Hirosaki Brigade, hereafter referred to as 4th Mixed Brigade, and railway guards sent south from Mukden November 24th against bandits, but believed real object preliminary operations on Chinchow which is now confirmed. General Staff states that 4th Mixed Brigade took Tahu Shan afternoon November 27th and troops are advancing towards Chinchow; Korea Brigade and railway guards are in same direction; 2d Division moving south and concentrating in Mukden. This places main body Japanese troops within range of Chinchow. General Staff also states orders issued November 27th not to advance beyond Ta Liang River near Chinchow but cavalry and advance troops have already today crossed the river. Press reports 10 bombs dropped on Chinchow by Japanese on November 27th. Not confirmed. It is expected that major engagement will take place within a few days though General Staff still states that they have no intention of war unless Chinese advance towards them. We have repeated assurance from General Staff and foreign office no general attack against Chinchow will take place. However, the above shows that Tokyo does not control situation in Manchuria. Details Tientsin fight meager but General Staff states that Chinese Army commenced firing on Japanese noon November 26th and fighting still in progress morning November 27th. Also states situation there has appearances of war. Press reports one division going from Japan to Tientsin. Not confirmed. McIlroy suggests sending language student with this division. What do you think? Special cabinet meeting this afternoon.

CRANFORD

¹⁰ Copy of telegram transmitted to the Department by the War Department on November 28, 1931.

793.94/2955 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 28, 1931—6 p. m.

[Received 9:55 p. m.¹¹]

815. From Ambassador Dawes: Following is Sweetser's report:

"Doctor Sze accompanied by Doctor Willoughby¹² and Colonel Olds presented to the Drafting Committee this morning China's suggested changes to the Council's draft resolution. He prefaced the discussion by saying that while China was entirely willing to discuss these details in Paris a new situation seemed to be developing in Manchuria where the Japanese appeared to be either unwilling or unable to carry out their agreements. He wondered therefore if the negotiators here might not be obliged to await the turn of events.

Drummond drew his attention to reassuring press despatches appearing in the afternoon papers and giving definite indications of withdrawal around Chinchow. Cecil, after stating that British official information indicated no disturbing change in the military side beyond the appearance of a Japanese aeroplane over Chinchow, decided as Chairman of the Committee that these broader questions were outside its competence.

The only amendment suggested to the first paragraph of the Council's resolution was the addition of the phrase that the withdrawal of Japanese troops be 'attested by neutral observers'. Cecil and Mada-riaga both felt and Sze agreed that this provision could better be inserted later.

Then followed a substantive amendment (1a) as follows:

'(1a) Calls upon the Japanese Government to begin at once the withdrawal of its troops to the railway areas, to proceed progressively with such withdrawal and to bring it to completion within (blank) weeks; provided, however, that if the commission of inquiry hereafter referred to shall find that the measures adopted by China for insuring the safety of Japanese lives and property are inadequate it may recommend the amplification of the said measures or additional guarantees.'

Cecil pointed out that this presented the old time limit difficulty which would destroy any possibility of unanimity in the Council. He himself would have liked a date but the others could not be brought to agree on it. Experience already had shown a date to be impossible; the appointment of a commission considerably changed the situation as its very first task would be to consider and to report upon evacuation. In reply to Colonel Olds' inquiry as to what would happen in case of a dispute between the commission and one of the Governments, Cecil pointed out that the matter could be referred to the Council and stated that the events of the last few days had shown that the Council's wishes had weight with the proposal.

Sze again urged, however, that China must have some definite assurance as to the termination of the evacuation; it must have confidence in one way or another that the Japanese troops would be withdrawn reasonably soon. Cecil agreed with this desire but pointed out

¹¹ Telegram in seven sections.¹² Prof. W. W. Willoughby, of Johns Hopkins University.

that, if it came to trying to fix a definite date, the Japanese might quite well urge that the Council does not at the moment have sufficient information and was in fact appointing a commission for the very purpose of securing information on this and other subjects. Madariaga suggested replacing all of the paragraph after the word 'areas' with the provision that in case of disagreement between the parties they could appeal to the commission who could in turn report to the Council. Cecil hesitated, however, making the commission so much a court of appeal.

Leger thereupon suggested adding a sentence at the very end of the resolution to the effect that, should evacuation not have been possible before the arrival of the commission, the latter should assure itself for the information of the Council as to how far the measures undertaken by China for the protection of Japanese lives and property had become effective. He pointed out that what China wanted was a guarantee against excessive demands or prolonged occupation. The commission would not necessitate delay; it was being sent out without prejudice to evacuation; it could, however, report on the efficacy of measures taken by both sides. Cecil supported this view saying that the Council could indicate that one of the first tasks of the commission would be to consider evacuation and recommend as to date if that evacuation has not already taken place; the Council could hardly, however, dictate to the commission in advance.

Olds urged again that the total absence of any stated period looked to the Chinese like a postponement to the Greek kalends. If a provisional date could be put in, even if made subject to adjustment, it would help greatly. What the Chinese wanted was a definite goal and not a complete uncertainty.

Colban found Leger's suggestion very acceptable. He felt it would give China very definite guarantees of withdrawal. The Council would continue its jurisdiction in the matter; the commission would represent it on the spot; he did not think China should fear indefinite occupation. Evacuation is the counterpart of security; the commission can report on both and thus give real, not paper, satisfaction.

In reply to Sze's question as to whether the commission could make an interim report on this special subject, Cecil said the Council wanted the commission to be as authoritative and powerful as it could possibly be. They wanted to secure the very best possible membership and must therefore give the commission the widest terms of reference. The situation involved was one of immense international complexity unlike anything else in the world. He thought however that the President of the Council could make a full declaration on these points. In reply to Olds' renewed query as to whether the commission could make an interim report on evacuation without waiting for its report on the whole of Manchuria, Madariaga drew attention to the first paragraph putting withdrawal in the very fore, but at the same time urged a certain elasticity in order to meet the circumstances in the case. It was then agreed at Sze's suggestion that the commission [*Committee?*] would give him a draft on the lines suggested by Leger. The Committee then passed to (1b) and (1c) of the Chinese proposals reading as follows:

'(1b) Calls upon the Chinese and Japanese Governments to appoint representatives to arrange the details of the execution of evacuation and of taking over the districts evacuated.

(1c) In order to give effect to the resolution of September 30th and also in pursuance of its unanimous decision of September 22nd authorizes and requests the President of the Council at once to appoint representatives on the spot whose duty it shall be to endeavor, in consultation with the Chinese and Japanese representatives, appointed for the purpose, to find adequate means of enabling the Japanese troops to withdraw immediately to the railway zone, without danger to the lives and property of Japanese nationals in Manchuria.'

Also an addition was suggested to paragraph 4 as follows: 'and to get into touch with the parties as to the localities and subjects with regard to which either of the parties wishes this information'.

Cecil, however, said it would create difficulties to attempt to establish a system of League representatives on top of the government observers—now on the spot. At the moment there are already nine observers at Chinchow; it would not be possible to get so many through the League and it would even raise the question of unanimity with Japan. Olds, however, wondered if there were not a difficulty about government observers; if, for instance, they sent in a scathing report, the government receiving it might not want to pass it on. Both Cecil and Colban thought that League observers could not report as freely as government observers; they must necessarily be very cautious; government observers could be freer and thus send in fuller information. Colban suggested that the system of cooperation among the government observers already arranged might be explained fully by the President of the Council showing that several Governments had sent observers; that the Council had suggested that they cooperate; that several Governments had issued instructions in this respect; that the observers were actually working in this sense; and that the Council was being informed. In response to Olds' suggestion that the present provisions on this subject were inadequate, Cecil agreed that the President of the Council would do well to state what had been done and how the whole system of information was being organized. A further paragraph (4a) was also suggested.

'(4a) It is understood that against the withdrawal of the Japanese troops the Government of Japan shall retain within the railway areas only such guards as it claims a treaty right to maintain there.'

Sze said this provision was very important. It was involved under the Portsmouth Treaty and other agreements and led to the question of reciprocal withdrawal. Cecil, however, felt that such a provision would be very difficult for the Council in that it would do the very thing they had avoided so far of drawing the Council into a discussion of treaties. Drummond also said such questions could be brought before the commission; Cecil felt that the commission's most important task would be to explore these treaties.

Sze stated he would later wish to put forward ideas regarding the commission, especially as to its terms of reference. Cecil reiterated the Council's desire to give it the most general powers and did not want to cut them down in any way but that he would be glad to have any suggestions on the subject.

It was thus left that the Committee would send Sze a formula on evacuation; that Sze would send in his views on the commission; and that the Drafting Committee would report to the Twelve at 4 o'clock."

[Dawes]
SHAW

793.94/2932 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 27 [28?], 1931—8 p. m.

[Received November 28—7:58 a. m.]

1019. Following from American Consul General at Mukden:

“November 27, 1 p. m. Official spokesman gave out following statement from Japanese headquarters but stated that it was to be taken as unofficial:

‘In view of the fact that the present situation has become quieter, headquarters has decided to withdraw all troops to the east of the Liao River and establish them at points within the South Manchuria Railway zone. The number of troops outside the zone will be reduced to a minimum.’”

For the Minister:

PERKINS

793.94/2953 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 28, 1931—11 p. m.

[Received November 28—10:28 p. m.]

816. From Ambassador Dawes: Following report is from Sweetser.

“Briand reported to the Twelve this afternoon that information from French sources indicated a concentration of some 5,000 Japanese troops 2 days ago near Mukden, with indications looking to an advance on Chinchow. He was not sure however whether the likelihood still persisted.

The British also circulated to the Council two reports from observers. The first gave details of the situation at Tientsin and at Chinchow, in the latter case saying the Chinese neither intend nor are able to put up a resolute defense. The second reported Tsitsihar as completely under Japanese military control but with order prevailing and the military authorities announcing their intention of withdrawing to Taonan the 2,500 troops who are in poor condition with over 350 out with frost-bite. Briand also said the American Military Attaché at Chinchow would cooperate with the other observers to prevent collisions between the Chinese and Japanese forces.

Cecil reported on today's meeting of the Drafting Committee with a general discussion following the lines of this morning's message (see my No. 815, November 28, 6 p. m.). In reply to questions he expressed the opinion that the Council could give Sze satisfaction on his two principal points. On the first, fixation of the actual date of evacuation, he thought Sze would accept the formula proposed this morning and since put into the following phraseology:

‘Should such withdrawal not have been completely effected before its arrival the commission might be called upon to ascertain for the information of the Council how far the measures taken by the Chinese authorities to safeguard the lives of Japanese nation[al]s and protect their property, have been put into operation and have proved effective.’

As regards Sze's second point, his request for a League commission of observers, Cecil felt he could be satisfied by the system worked out by the Council provided it were clearly understood and explained in the President's speech.

Briand said it now seemed time to come out of the tunnel. The Council must know definitely and shortly whether it is to succeed or not. It was agreed consequently to press matters as quickly as possible with two meetings tomorrow. The Drafting Committee would meet the Japanese at 11 to receive their suggestions for changes in the resolution. The Committee of Twelve would meet at 4 to consider the Japanese suggestions and the general declaration to be made by the President of the Council. The new text presented to Chinese as a bridge on evacuation would not be presented to the Japanese until accepted by the Chinese.

Outside the Council uneasiness has been created amongst both officials and journalists by strange news reports from Japan. Reuters correspondent received a message from Tokyo today that Rengo had quoted the United Press in Paris as saying that Briand had announced to Sze that, if Japan attacks Chinchow, article 16 would be applied with American cooperation. Any such statement was denied on Briand's part; similarly the United Press correspondent denied having sent it.

Late this afternoon Havas distributed to the French press a long Tokyo despatch which Reuter had distributed to the British press quoting opinion in Japan, and especially at the Ministry of Foreign Affairs, as affronted at statements attributed to Mr. Stimson. Shortly after, the United Press had a despatch from New York denying either that Mr. Stimson had made the declarations given or that the Associated Press had carried them, as Rengo reported."

[Dawes]

SHAW

793.94/2950 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

TOKYO, November 29, 1931—noon.

[Received November 29—5:38 a. m.]

240. My 234, November 24, 10 p. m.¹³ In my interview with Baron Shidehara, reported therein, he detailed, expressly requesting this be confidential and only for my information, a series of interviews which he held with the Minister of War and the General Staff, which led finally to a sequel regarding Japanese withdrawal from Tsitsihar and no further Japanese advance on Chinchow save such operations as were necessary for the dispersal of bandits at threatening points. At this stage I asked Shidehara to stop, and I said: "May I cable to Washington in the following sense", wording then what I intended to report

¹³ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 50.

to you, and this I sent as nearly accurate as I could recall it. He assented. While marking my telegram as confidential, I blame myself now for not inserting in it a further indication that Shidehara wished this part to be kept from the public. The difficulty was that, under the Japanese Constitution, the Minister of War and also, I believe, the Chief of Staff report direct to the Emperor; the Foreign Minister thus has no authority to speak for them, and an indication to the public that Shidehara has done so arouses antagonism, thus rendering his position very difficult. Since I am certain that the press will have done this, I am not cabling you the full text of the vigorous statement which the Foreign Office gave out last night. I assume that Shidehara felt obliged to do this because of the effect here, in the hope of placating his critics. It is my hope that the Department may reply in a conciliatory tone which will help Shidehara's position. Talking of recently dispersed bandits, Shidehara informed me further that the bandits were in groups of more than 1,000, and this indicated they must have been financed, from Chinchow probably, and dispatched to harass the movements of Japanese troops. Bandits in smaller units are able to subsist upon the country, though large groups are obliged to carry their own sustenance.

FORBES

793.94/2949 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, November 29, 1931—2 p. m.

[Received November 29—12:20 p. m.]

817. From Ambassador Dawes: I had a call this morning from Sze who is still discussing at every opportunity the Chinese counter-proposal's time limit. The argument which I used with him, I think with some effect, was that if Sze is able to obtain proper confirmation of the press reports today of the Japanese Army's removal to the east side of the Liao River, he should at once abandon pressing any further for a time-limit clause and should immediately announce the acceptance by China of the League's settlement plan. By acting quickly in this way, and giving as his reason the actual movement of Japanese troops in withdrawal, Sze can, so far as the Chinese people are concerned, relegate to the academic the issue of a time limit and save his Government's prestige at home.

Such action on the part of Sze would unquestionably stimulate the acquiescence of Japan in the League's plan. The acquiescence of China in the League's resolution, on the basis of an actual com-

mencement of evacuation by Japanese troops, would make it much less likely for the Japanese to change their attitude unfavorably, since the withdrawals of troops made hitherto commit Japan more firmly in world opinion to Japan's announced program of troop withdrawal. Japan would be stimulated by such Chinese action also to a more receptive attitude as regards certain details of the Council's resolution which still are under discussion between the Japanese and the Council, thereby leading to a speedier agreement by all concerned.

These views were apparently accepted by Sze, but he wishes before acting to get confirmation of the reported evacuation to east of the Liao River of portions of the Japanese Army. He says it would greatly assist him if the neutral observers at present in Chinchow should confirm the news. If it could be made in accord with the facts, a public announcement by these observers might, I think, result in the immediate acquiescence of China. Would it not be well in this connection for you to send some suggestions to the American observer? An announcement jointly by the observers, or even by several of them, concerning the actual progress of the Japanese troop withdrawals could not but be welcome to both China and Japan. [Dawes.]

SHAW

793.94/2951 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

Tokyo, November 29, 1931—6 p. m.
[Received November 29—7:27 a. m.]

241. I had an interview with Baron Shidehara at 3 p. m. this afternoon, giving my observations your 249.¹⁴ He was amazed when I made him read statement summarized to you last night¹⁵ given out to assembled press representatives in writing by authorized spokesman Foreign Office. He had neither seen nor authorized it and stated that it did not express his views in any respect. His statement to representatives of Japanese press given at 4 p. m. yesterday afternoon was to the effect that he did not believe statement of Associated Press attributed to you could have been given out by you, as he knew it was wholly unlike you. He dwelt further on the subject of the proposed accord with Chinese in regard to operations around Chinchow by stating that Wellington Koo had made a proposal through Briand which the Japanese had accepted in substance; that he had not intended

¹⁴ Of November 28, 4 p. m., p. 580.

¹⁵ See telegram No. 239, November 28, 8 p. m., from the Ambassador in Japan, *Foreign Relations, Japan, 1931-1941*, vol. I, p. 51.

his assurance to you that Japanese troops would not occupy Chinchow to be published because he and his military colleagues feared that with this assurance the Chinese would say there was now no further object in entering into the accord and would withdraw Wellington Koo's offer. He states that the Chinese troops in considerable numbers are nearer Mukden than Kowpangtze and are occupying Tahushan and he fears premature announcement of Japanese intention will result in further advances and bringing about a situation that can only be met by further fighting. It seems as though influence of the United States and all other powers interested in promoting peace might be used in insisting that the Chinese adhere to their offer and reach agreement along the lines on which negotiations were proceeding. The newspaper statement which I cabled you yesterday¹⁶ was our translation from the Japanese papers. It runs closely parallel to the English version appearing in the *Japan Advertiser*.

Word has just come in that the Foreign Office has disavowed the press statement issued last night, stating that the press despatch had been accepted without verification and that the Foreign Office statement had been issued without the authority of the Foreign Minister.

FOREES

793.94/2960 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 29, 1931—midnight.
[Received November 30—12: 57 a. m.¹⁷]

818. From Ambassador Dawes. Following report from Sweetser:

"Yoshizawa brought disturbing news to Briand tonight. He stated that Koo recently informed the British, French and American representatives in Nanking that China was prepared to withdraw her troops from Chinchow on condition that Japan give a guarantee to the three powers that she would not send her troops into that area. Wilden¹⁸ reported this to Paris and Tokyo where Martel¹⁹ communicated it to Shidehara. The latter accepted the proposal for Chinese withdrawal but refused the guarantee, suggesting instead, it is understood, that Japan would not send troops into the district unless the safety of Japanese there or in North China demanded it. It was, however, on the basis of the Koo proposal, Yoshizawa informed Briand, that Shidehara persuaded the Japanese military authorities to the withdrawal which is now under way. Yoshizawa urged upon Briand that Koo must continue the negotiations thus started; otherwise the Japanese military leaders will feel themselves tricked. He

¹⁶ See telegram No. 239, November 28, 8 p. m., *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 51.

¹⁷ Telegram in three sections.

¹⁸ French Minister in China.

¹⁹ French Ambassador in Japan.

left with Briand a stiff memorandum in which he claimed that grave consequences might ensue.

Yoshizawa asked Briand if he could not bring pressure to bear on the Chinese to continue these negotiations and make good what he called Koo's promise. Briand replied he could hardly ask the Chinese to complete their part of the proposal for the withdrawal of Chinese troops if the Japanese were unwilling to complete their part as to the guarantee to the three powers. Then followed a discussion on this point of the guarantee at the last of which Yoshizawa indicated that Japan would probably be willing to take some kind of engagement toward the Council in place of a guarantee toward the three powers. Just why or how far this suggestion would go is not clear nor it is [*is it*] sure whether its terms would be acceptable to the Chinese. The situation here has been rendered confused by this new and uncertain negotiation in the East; the feeling is growing however that the Japanese intend, by negotiation or otherwise, to clear Manchuria of Chang's troops.

An indication of the view of the Japanese Government and the form of its conditions are shown in the following letter circulated tonight and in its turn complicating the situation as regards the Council's suggestions for a system of observers at Chinchow:

'With reference to my letter of November 27, I have the honor to acquaint you that my Government has just informed me that it has examined with great care the proposal submitted to the Governments represented on the Council.

The policy which the Japanese Government has so far consistently pursued in the true interest of good relations between China and Japan has been not to resort, in disputes capable of direct settlement with China, to the interposition of third parties; and it cannot but pursue this line of conduct in the present case.

Within these limits it will of course always be prepared to give the fullest consideration to any means of avoiding a conflict. It was in this spirit that it welcomed China's recent proposal which was transmitted to it by His Excellency, the French Ambassador at Tokyo.

As you have certainly been informed by M. de Martel, Baron Shidehara, when expressing to the latter the hope which the Japanese Government shares with the French Government, that hostilities would be avoided in the Chinchow district, informed him that if China withdrew her troops entirely from the Chinchow district to Shanhaikwan and west of that place and only maintained the administration (including the policing) of the Chinese district at Shanhaikwan, the Japanese Government would be prepared to undertake in principle that Japanese troops would not enter the zone thus evacuated by the Chinese troops except in the unexpected case of serious and urgent circumstances threatening the safety of the lives and property of Japanese nationals in northern China and the safety of the Japanese troops stationed therein.

The Japanese Government at the same time expressed its readiness to order its competent authorities on the spot to enter into negotiations at any moment with the local Chinese authorities regarding the exact determination of the above-mentioned zone and the detailed measures for giving effect to this arrangement.

Under these circumstances it would be desirable, in the opinion of the Japanese Government, to see how the above-mentioned suggestions will be received.'

This letter Briand presented today to the twelve members of the Council, other than the Chinese and Japanese, who approved the following reply which may be supplemented by a further reply tomorrow.

'I have the honor to acknowledge receipt of your letter dated November 28 in which you communicated to me your Government's opinion on the proposal which I transmitted to you on November 26th.

I cannot help thinking that a misunderstanding exists with regard to the [meaning?] of this proposal which does not constitute, as you seem to think, an

invitation "to resort to the interposition of third parties" in a dispute capable of direct settlement between Japan and China.

What my colleagues on the Council and myself contemplated was certain measures to be taken in a dangerous situation to which Your Excellency, like the Chinese representative, had drawn my attention. The measures in question were exceptional measures to be taken rapidly to avoid a conflict between the opposing forces in the district of Chinchow and thus to prevent loss of human life. It is for this reason that my colleagues and I regard it as extremely important that the facilities mentioned in my letter of November 26 should be given to the representatives sent to the spot by certain powers. Moreover, the exceptional measures contemplated may be taken without prejudice to the wider proposals which your Government may wish to submit to the Chinese Government.

I further venture to remind you that as regards the particular case with which we are dealing, viz, the danger of encounters between Japanese and Chinese forces in the Chinchow district, the Chinese proposal for the creation of a neutral zone involved the despatch of international detachments to the said zone. For this proposal, which raised difficulties of a practical nature, my colleagues and I substituted the suggestion which I again wish to recommend to your Government's attention."

[Dawes]
SHAW

793.94/2958 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 30, 1931—2 a. m.

[Received November 30—1:34 a. m.]

819. From Ambassador Dawes. Following is report from Sweetser:

"Two meetings were held today, the first of the Drafting Committee with Ito in the morning to discuss Japan's suggestions regarding the draft resolution, and the second of the Committee of Twelve in the afternoon to consider this and other questions.

Ito presented a memorandum explaining that the purpose behind the Japanese suggestions was to simplify the resolution as much as possible and leave all details and commentary to the President's speech. He thought this would turn several difficulties felt by both delegations and increase the chance of unanimity.

The first amendment, he suggested, was purely one of drafting, omitting the word 'recalls' in the first paragraph, to which the Committee agreed. In this same paragraph also he asked to have omitted the phrase 'so that the withdrawal of the Japanese troops within the railway zone—a point to which the Council attaches the utmost importance—may be effected as speedily as possible.' Part of this he felt to be an appreciation which had better go in the President's speech; the rest he thought should not be given unless accompanied by the counterbalancing part of the September 30 resolution regarding safety. The Council members seemed to feel however that the resolution ought to start with special emphasis on evacuation, even, as one member stated, in view of Japan's insistence on her intention in this regard and it is probable that Ito's point would be met by adding another phrase: 'On the resolution of September 30'.

In the second paragraph Ito proposed that it be stated that the situation had grown worse 'in other parts of China' as well as in

Manchuria. He mentioned especially the boycott and the situation in Tientsin to justify this. The Committee felt however that these more general matters could only be handled by the commission; it thought it could meet Ito's point by leaving out the phrase 'in Manchuria'.

In this same paragraph Ito urged for constitutional reasons the omission of the phrase as to giving commanders of the respective forces the strictest orders as in the case of Japan, troops serving abroad are under the control of the Emperor. This point could be met without loss to the resolution but more doubt was felt regarding Ito's suggestion that the phrase that the two parties would 'undertake' certain obligations be replaced with the phrase that it was their 'intention' to do certain things.

As regards the commission, Ito strongly urged limiting the number of members to three though he frankly stated that he could give no convincing reason therefor. In reply to comments as to the immense task before the commission, the wide area to be covered, and the many subjects, diplomatic, military, economic, etc., Ito urged that most all these questions were technical and the commission could have as many experts as it desired. No decision was taken but the tendency is towards a commission of five.

The most serious difficulty faced both in the Drafting Committee and in the Committee of Twelve was in connection with his suggestion that the President's declaration expressly admit the right of the Japanese forces to take such measures as are indispensable to protect the life and property of Japanese subjects against bandits and other lawless elements in Manchuria. Ito explained that the situation there was very abnormal; that the Japanese position must be clear of any ambiguity; and that this particular text had been expressly sent him from Tokyo. Various members of the Drafting Committee objected to provisions, however. Cecil pointed out that it is very difficult to distinguish between police actions and acts of war on another country's territories. Colban feared the provision might create some permanent right of intervention. Madariaga took much the same view. Cecil in reporting to the Twelve in the afternoon even more emphatically stated that this suggestion seemed to open the door to all sorts of dangers, and permitted raids which might become real military movements resulting in the capture of cities. He wondered if it might not be possible to induce the Japanese to agree that in case it were necessary to take action against bandits in the future they would invite a neutral observer to accompany them and notify the League of the facts. Briand shared these preoccupations; he did not know how clearly to distinguish police measures from military action; he did not see how the Chinese could agree to such a declaration affecting a large part of their territory; he seriously doubted if measures such as had been taken would be [in accord?] with article 2 of the Kellogg Pact. Fotitch was afraid any such declaration might create a new doctrine of international law; Lester²⁰ feared to have the Council give any appearance of moral sanction to military actions taken by one country

²⁰ Irish representative at League of Nations Council meeting.

in another. It was agreed that Briand would try to find a text which would give the Japanese the possibility of reasonable police action against bandits up to the time of the completion of the evacuation but without raising the larger questions.

Briand announced the receipt of a telegram that the Japanese had begun withdrawal from Tsitsihar to Taonan. He thought there was a certain amelioration of the military situation. If this turned out to be the case the Council must profit by it and act quickly. It was accordingly arranged to try to have three meetings tomorrow, first with Sze in the morning, then with Yoshizawa, and finally with the Twelve.

A special request was made by Cecil to give the Chinese satisfaction regarding some kind of permanent organization of military observers who should be able to collate reports and act quickly if necessary. He said the Chinese were very anxious to know what sort of assurance could be given them in this respect as they feared that once the Council were gone the Japanese would become even more active. Cecil said that his Government would be willing to instruct its Minister in Nanking to discuss some permanent liaison amongst the military observers and asked if the other members of the Council would do likewise. The French and Spanish representatives immediately replied in the affirmative; the German said he had already asked his Government but had not yet had a reply."

[Dawes]
SHAW

793.94/2949 : Telegram

The Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, November 30, 1931—11 a. m.

443. (1) Ambassador Dawes reports from Paris in Embassy's No. 817, November 29, 2 p. m., that Sze wishes "to get confirmation of the reported evacuation to east of the Liao River of portions of the Japanese Army." [Here follows quotation of remainder of final paragraph of telegram No. 817, printed on page 588.]

(2) Please paraphrase the above to the Military Attaché at Chinchow and state that the Department suggests the collaboration and prompt despatching by the Military Attachés if possible of joint or identical statements to their respective Governments "concerning the actual progress of the Japanese troop withdrawals".

(3) Please inform Nanking of the foregoing and of your action.

STIMSON

793.94/2950 : Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

[Paraphrase]

WASHINGTON, November 30, 1931—noon.

250. Your 240, November 29, noon. You stated in your 239, November 28, 8 p. m.,²¹ that Baron Shidehara, in informing you of the agreement between the Minister of War, the Chief of Staff, and himself, requested that this be kept as confidential. In your 234, November 24, 10 p. m.,²² your mere initial preface that it was "confidential" for me was not regarded as meaning that all the facts mentioned should be kept secret. This direction indicated that the telegram should have my personal attention and, under the Department's practice, does not carry the intimation that the other Government had requested privacy in regard to certain special facts. Therefore, you are correct in feeling that for such a case there should be specific mention that part of the communication is secret, so that no misunderstanding might arise.

To communicate to me the impressive fact that the important step had been taken by the Japanese Government, represented by both its civil and military branches, to direct that there should be no occupation of Chinchow was, under the circumstances, not the sort of information this Government would naturally expect to have received or been given in confidence. Neither my advisers nor I had accordingly any idea that to announce this step would embarrass Shidehara. The statement I made was, on the contrary, intended to answer and calm the disquieting reports in the press that the Japanese Army had begun a general movement against Chinchow.

I notified Shidehara through Debuchi as long ago as November 19,²³ immediately following the news of Tsitsihar's occupation by the Japanese, that this had rendered the situation so serious that I must reserve the right of informing the American public in full respecting the efforts being made by this Government under the treaties to which it is a party to preserve peace in Manchuria and that it might become necessary in this connection to make public all the notes, memoranda, and other steps taken for this purpose. Should the efforts at conciliation and settlement being made at present in Paris finally fail, it will probably be necessary for this Government to make public a record of its patient and long efforts to prevent a failure of this kind. You will realize in the light of such a possibility the special importance of

²¹ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 51.²² *Ibid.*, p. 50.²³ See memorandum of conversation, *ibid.*, p. 44.

indicating specifically any communications which have been made to you, either wholly or in part, as strictly confidential.

I have had investigated the Japanese Rengo agency press statement which was published in Japan and reported by you in your 239; it is found that Rengo misattributed to me some opinions expressed personally by the Associated Press writer whose report formed the basis of the Rengo despatch. As I have informed you already, such opinions have never been expressed by me either in public or in private. However, it is only fair that you know these opinions do fairly represent widely current criticisms prevalent in the United States since the bombing of Chinchow and the occupation of Tsitsihar. This feeling it is which has caused me, for the sake of good relations between Japan and the United States, to be so anxious for the Japanese Army to make no further military advance in Manchuria.

STIMSON

793.94/2956 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 30, 1931—3 p. m.
[Received November 30—7:20 a. m.]

1025. 1. Legation is reliably informed that Marshal Chang informed the Japanese that subject to approval by Nanking, he was willing withdraw his troops to Shanhaikwan provided the Japanese would retire to Mukden. It would appear, however, that Japanese withdrawal had already begun prior to the Marshal's stating [*statement*].

2. Yesterday a bomb exploded in the residence of the Japanese Naval Attachés at Peiping, outside the Legation Quarter. Investigation is proceeding.

Repeated to Nanking.

[For the Minister:]
PERKINS

793.94/2985

Memorandum by the Secretary of State

[WASHINGTON,] November 30, 1931.

The Japanese Ambassador came to tell me the following points:

1. That Tsitsihar was being systematically evacuated, and that at present there were left there only two battalions of Japanese troops aggregating less than 1,000 men, which were to be gradually withdrawn;

2. That the troops which had moved toward Chinchow were now coming back and would not be moved west of the Liao River unless some unexpected danger to Japanese nationals should come up;

3. That all firing in Tientsin had ceased since the afternoon of November 29th, and that the armed police who were responsible for it had been removed.

Then turning to the negotiations in Paris, the Ambassador said that there really should be no question of a neutral zone, because the Foreign Minister of China had asked the foreign observers to communicate to the Japanese Government China's willingness to withdraw her troops from Chinchow in case the Japanese troops do not penetrate into the zone of Chinchow. He reminded me that this was the statement in the French text that he communicated to me the other day,²⁴ and he said that on receiving this word the Japanese Government had at once replied²⁵ that Japan was ready to agree not to penetrate the Chinchow zone in case China withdrew her troops west of the Wall and out of the zone.

The Ambassador reminded me that he had shown me this offer and answer the other day and said he thought that that settled it. I told him that I was not authorized to make any offer or enter into any negotiations but that I had reason to believe that if Japan was willing to permit neutral observers on the spot to definitely verify the fact that the Japanese troops had moved east of the Liao River, China would be willing to leave out of the resolution now being discussed at Paris, the time limit for evacuation, and I said if this was so it would greatly facilitate an agreement upon that resolution of the League Council.

The Ambassador then reverted to the Commission of Inquiry and said that Japan had originally suggested that there be representatives of Great Britain, France and America, but now that they had heard that Italy would like to have a representative and they had no objections to that. He then asked me whether we would consent to an American going on the Commission. I replied that if, and only if, Japan and China consented that an American should go, we would favorably consider having one go. He said he hoped that the Commission would be of high class. I told him we certainly would not try to send a second-class man and I said that I had considered the neutral commission as the most important part of the League Plan and, therefore, if an American was on that commission I should certainly try to get as good a one as possible.

The Ambassador then referred again to the negotiations going on in Paris and said that they were having a very ticklish time in Japan in their issue between the military and the civil authorities and that Baron Shidehara was obliged to make some suggestions of amendments to satisfy the military people, and he hoped we would under-

²⁴ *Ante*, p. 530.

²⁵ For Japanese reply, see p. 530.

stand that and if necessary that General Dawes would back up such amendments. I told him I was not conducting the negotiations but I thought they were being very well handled by M. Briand.

H[ENRY] L. S[TIMSON]

793.94/2963 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 30, 1931—5 p. m.

[Received November 30—1:25 p. m.]

821. From Ambassador Dawes: Sze is acting along the lines of my suggestion reported in my telegram 817, November 29, 2 p. m. He sent a representative to me with his exact statement to the Council from which I quote as follows:

"I am prepared to say to you now that if it can be established by neutral observers definitely verifying actual withdrawal of Japanese beyond Liao River, China is willing to leave out of the resolution the time limit for complete evacuation.

China is making this concession on the time limit entirely on the assumption that in fact Japan is definitely withdrawing from Chinchow."

[Dawes]

SHAW

793.94/2964 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 30, 1931—6 p. m.

[Received November 30—4:25 p. m.²⁶]

822. From Ambassador Dawes. Following is report from Sweetser:

"Sze opened this morning's meeting of the Drafting Committee with a statement that new complications seemed to be arising in Manchuria and that events might quite well swamp the negotiations in Paris. In reply to his question as to whether the observers had sent any definite news on Japan's reported withdrawal, Cecil stated that the British Military Attaché with the Japanese had just reported that he had witnessed the withdrawal of [from?] Hsinmin, and Massigli stated that reports from French observers with both forces stated that the advance had not only stopped but withdrawal had begun though it was not yesterday clear whether this tendency was provisional or permanent.

Cecil then replied to Sze's request for information as to the plan concerning observers by stating that the members of the Council

²⁶ Telegram in five sections.

desired to have a definite though fluid organization working upon the control of the diplomatic representatives at Peiping and able to go from place to place to work in unison and to collate reports.

He agreed with Olds' definition that this would be a sort of flying squadron of observers able to go to any spot of danger working under the orders of the Governments and reporting to those Governments, which in turn would report to the Council. In reply to Sze's question whether he might have the names and posts of the observers, Cecil said he was willing to give all details possible, that at the moment the British had observers at Mukden, Chinchow and Tsitsihar and that in addition there were at Chinchow the French Consul General from Mukden and a military officer; the German Consul General from Mukden; the Italian Consul General from Tientsin and the American Military Attaché and a language officer. As regards co-operation Massigli stated that the Chinese General at Chinchow had already convened a meeting of observers and established contact. Sze pointed out however that yesterday's Japanese note seemed to put in jeopardy the whole principle of this system which constituted a very valuable guarantee for China.

Sze then made an important general declaration that China's chief interest is in withdrawal and that if the fact of partial withdrawal can be established she would not insist on full immediate withdrawal. He did not give further details beyond indicating the importance he attached to some immediate Japanese action in this respect.

A detailed discussion then followed on China's suggested amendments to the resolution. The Leger proposal aimed to prevent the appointment of the commission from being used to delay evacuation was discussed from two viewpoints. First, the Chinese wished to have it rephrased so as not to give the impression that the commission should investigate only China's obligations regarding security but should also discuss Japanese obligations as well. Several drafts were suggested to meet this difficulty. Second was the more serious question as to whether this provision should be embodied in the resolution or in the President's declaration. Cecil seemed to feel that the Chinese purpose might be better attained in the latter way which would naturally allow greater detail and explicitness than the former. Sze however supported strongly by both Olds and Willoughby urged as a matter of prime importance to China that this provision be included in the resolution itself which seemed to him the more binding and which certainly would be the document scanned by Chinese opinion. If an actual time limit were not fixed the Chinese must have something very substantial giving hope of early withdrawal. The Committee took no decisions, Cecil however suggesting the possible compromise of including the provision in the resolution but handing its substance to the Chinese in advance to be telegraphed to Nanking. In this same connection Sze urged that while he of course himself understood that the President of the Council could convene that body at any moment of emergency and that a regular session was scheduled for mid-January, still it would help his public opinion if the precedent followed in the resolutions of September and October could be repeated and some public indication of an early meeting given. It was thought

that satisfaction could be given to this request by the President stating that the Council remained seized of the question, entrusts its President with following it, and will meet again in extraordinary session, if necessary, before the January session.

The next most important point raised by the Chinese was the addition of the sentence 'any question which by international law is solely within the domestic jurisdiction of either party, may be considered by the commission only with the consent of such party.' Cecil reacted very strongly against this suggestion, which he felt would cripple, if not destroy, the commission. It was impossible he thought to draw a formula which would really distinguish between domestic and international issues without threatening the commission's whole competence. The Committee had tried to meet this difficulty, however, by limiting the questions to those 'affecting international relations.' Massigli pointed out that what was desired was to get a photographic impression of the situation; a clause so ambiguous as Sze's might be used to exclude almost everything.

As to the numbers of the commission, Sze expressed the opinion that three members would not be sufficient with so large an area and so many subjects to be covered. China would really like 9 or 11 members. Cecil reacted immediately against this, however, on the double ground that it would not lead to rapid and effective decision nor insure the high type of membership desired. Massigli added that many members meant many views and that the commission would after all report to the Council which is a large body. Olds thought three too small in view of possible sickness and the necessity of dividing up the work. Cecil concluded that he had never considered more than five.

Following this discussion Cecil informed Sze that he gathered from neutral sources that the system of government in Manchuria had broken down. He asked him to turn over in his mind whether he had any suggestion to offer to meet this suggestion. The Council seemed to be evolving a system for limiting military aggression but had as yet done nothing to meet the problem of lawless bands roaming the country, as is a quite familiar phenomenon following military occupation.

After Sze's withdrawal Cecil stated he had just received an embarrassing letter from Ito to the effect that after his return from yesterday's meeting, he had received new instructions from Tokyo. He enclosed a memorandum which seemed to go back upon much of the progress made yesterday and which sought anew to include in the text of the resolution the right of the Japanese to take such measures as necessary for protection against bandits. Cecil thought such a provision would be fatal and that the Council neither would nor could agree to it. In view, however, of the fact that this letter and memorandum was felt to put the Committee back where it had been before Ito's memorandum and discussion of yesterday, it was decided to see him again this afternoon."

[Dawes]
SHAW

793.94/2965 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 30, 1931—11 p. m.

[Received December 1—1 a. m.²⁷]

823. From Ambassador Dawes. Following is report from Sweetser:

"The Japanese submitted to Briand late tonight what was considered to be a very important private document regarding Chinchow. They propose, in effect, that, with their own withdrawal already under way, the Chinese similarly withdraw their troops from Chinchow, leaving the control of the district in the hands of the Chinese authorities reinforced by a sufficient extra number of police troops to maintain order. These arrangements, including the number of extra police, would be elaborated between the Japanese Consul and the Chinese authorities. Briand immediately transmitted the proposal to Sze with the hope that it might provide a solution for the most serious remaining military problem and consolidate the withdrawal of Japanese troops already stated by both British and French observers to have begun.

At this afternoon's meeting of the Twelve Cecil reported on this morning's meeting of the Drafting Committee with Sze, who he said seemed inclined to be moderate because of the news regarding withdrawal. Sze had seemed satisfied that the system of observers as explained to him would work quickly in emergency; had said that though he would like 9 or 11 members of the commission he would not make an issue of this point; had on the advice of his 2 American advisers reduced the limitation on the competence of the commission to domestic questions to a phrase 'without prejudice to the right of the commission to exercise its full discretion to control its own agenda' and had abandoned or received satisfaction on certain other small points.

The only outstanding point with the Chinese, Cecil concluded, was as to the relationship between evacuation and the commission. A new text had been prepared by the Secretariat which Sze accepted; the only point at issue was whether it should be in the resolution or the President's declaration. Sze insisted on the former; Cecil preferred the latter especially as a balance to demands by the Japanese but it might be possible to reach a compromise by including it in the resolution but giving it to Sze formally in advance. The suggested text was as follows:

'Should the engagements taken by the two parties according to the resolution of September 30th not have been executed by the time of the arrival of the commission, the commission shall as speedily as possible report to the Council on the situation with such recommendations as it may think fit.'

Cecil also stated that, following a disquieting letter from Ito, the Drafting Committee had met with him this afternoon and been somewhat reassured. Ito had in fact transmitted his instructions from Tokyo but Cecil had the impression that on most points agreement was possible.

²⁷ Telegram in five sections.

As regards one point to which Ito attached great importance, Ito himself rather felt it better to include the phrase regarding evacuation 'a point to which the Council attached great importance' in the President's declaration; this was in fact a commentary which the Council could use as a bargaining point.

There remained one very big question as to what was to be done about bandits. Here the situation was worse than yesterday as to [*sic*] the Japanese Cabinet, despite Shidehara's efforts to have this provision included in the President's declaration, had decided that it ought to appear in the resolution itself. This seemed to Cecil really impossible. It would reduce the whole negotiation to nothing and had not the slightest defense in international law. He had told Ito he thought there was no hope of the Council's agreeing to its inclusion in the resolution but said with some reluctance that it might be put in the President's declaration. If this were justified at all it was only because of the very exceptional circumstances prevailing in Manchuria through the breakdown of civil government. This, to Cecil, is the most difficult point in the whole negotiations now that China's moderated attitude has removed the difficulty as to a time limit. It was extremely repugnant to him that one power should be allowed to send troops to scatter bandits on the territory of another and it would be very difficult for the Chinese to accept it as it would constitute an admission that they cannot maintain order on their own soil.

Madariaga said he attached very great importance to inserting in the resolution the Chinese suggestion regarding the relationship of evacuation and the commission. He thought the Council should take a definite position on this point and suggested that it might ask the Japanese to agree to this in return for giving up the commentary on evacuation to which they objected. This the Council agreed to do. A further report followed on the bandit question. Colban was anxious to have the Twelve take a definite position on this; he felt that any such authorization as the Japanese asked should be highly exceptional and not more formal than by inclusion in the declaration. The Panaman representative felt that this point must be very carefully guarded; all Latin America would be anxious about it. Cecil said nothing could be done till the Japanese had had time to communicate today's discussion to Tokyo where a cabinet meeting would undoubtedly be necessary. Briand however urged that each member of the Council do whatever he could to induce the issue to be moderate on this last remaining point and expressed the view that it would be very valuable if General Dawes also could see any way to help in this matter.

Cecil then proposed a meeting of the Drafting Committee tomorrow morning to put the small changes recommended by both sides into final form for distribution privately to the members of the Council tomorrow noon. No further meeting of the Twelve seemed desirable until a reply had come from Tokyo on the all-important point of bandits. At that time it might be necessary to have a public meeting on this point to let the two parties thrash it out."

[Dawes]
SHAW

793.94/2968 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 1, 1931—noon.
[Received December 1—6:15 a. m.]

1027. Department's 123, November 27, 1 p. m., to Nanking. Following from Minister:

"November 30, 3 p. m. Your November 29, 11 a. m.; my November 28, midnight. Inform Military Attaché at Chinchow that I understand new instructions have been sent today to British Military Attaché. You should also inform him that I understand that Paris proposal upon which other military observers are working is as follows:

A. Observers to concert together with a view to possibility of establishing between Chinese and Japanese troops a neutral zone or any similar arrangement for avoiding a clash between them.

B. Observers should concert methods of establishing liaison with commanders of Japanese and Chinese with a view to making necessary arrangements.

I understand British instructions contemplate the making of arrangements for a regular concerted organization of observers with liaison between different nationalities and collation of reporters and with sufficient observers held in readiness to proceed to the localities which may be indicated as danger points.

British observer has been instructed to concert with his colleagues at Chinchow with a view to the accomplishment of the above proposals. You are authorized to proceed along similar lines but should keep the Legation and the Department currently informed of all arrangements."

For the Minister:
PERKINS

793.94/2970 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

TOKYO, December 1, 1931—4 p. m.
[Received December 1—9:50 a. m.]

246. My 241, November 29, 6 p. m. As to my last interview with Baron Shidehara, I am not able to think of anything further of importance to add, except to remark that his tone was much calmer than the first time and he explained in detail the causes of existing embarrassment which he did not intimate in the earlier interview. He still is being criticized quite sharply by the military and is undergoing attacks by the press. He informed me that an Army representative

had called upon him and had expressed to him the fear that the Chinese would be so encouraged by the announced Japanese agreement not to occupy Chinchow that any hope of an accord would be upset. Speaking of the Foreign Office spokesman's critical statement as given out, Shidehara said this was contrary to his way of handling public questions, for he endeavored to make all of his utterances conciliatory in tone. The night of November 28, after the Associated Press messages were published, I issued to the Japanese public a statement as follows:²⁸

"In the absence of exact information the Embassy is unable to make any statement on the alleged interview with the Secretary of State. It is hoped that the situation will be viewed calmly by the public until the receipt of official reports, which it is hoped will clear up any misunderstanding."

My statement was printed on the front pages of the Japanese newspapers and had a good effect. After I had shown the substance of your 248²⁹ to Shidehara the following day, he inquired whether I could not make to the press a further statement, which I did as follows:³⁰

"The American Embassy has received advices from the State Department in Washington that the interview purporting to have come from Secretary Stimson is utterly at variance with his attitude. The Secretary of State has never held or expressed in public or private an attitude towards the Japanese Government such as that indicated in the press report but on the contrary has used his influence to restrain any expression by the American press which in his words 'might be embarrassing to a solution of the Manchurian controversy'. He has publicly denied that the words as quoted were his.["]

It is agreed by the newspapers here, despite some further repercussions, that the episode is ended unless it should cause the nullifying of the accord which it is hoped is now in process of adjustment.

FORBES

793.94/2975 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, December 1, 1931—4 p. m.

[Received December 1—12:40 p. m.]

824. From Ambassador Dawes: I have just had a call from Matsudaira with whom I have discussed one of the few remaining points of difference, namely, the manner in which the League's declaration and

²⁸ Quotation not paraphrased.

²⁹ Of November 28, 2 p. m., *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 54.

³⁰ Quotation not paraphrased.

resolution shall cover the question of the protection of Japanese nationals against bandits. I personally appreciate the Council's desire to avoid making a precedent seemingly inconsistent with international law as it exists by justifying inferentially the occasional chasing of bandits outside the Japanese railway zone, but I also realize, with the recollection in mind of the expedition led by Pershing into Mexico in pursuit of the bandit Villa,³¹ that the condition in Manchuria is not theoretical but is actual. If the Japanese Government were to announce its agreement in advance to send no detachment to prevent an expected slaughter of Japanese subjects in any particular locality by a Chinese bandit group, probably the Japanese Government would fall.

The Council, in continuing to deal with the situation in Manchuria, rather than to throw overboard the attempt to secure a peaceful settlement prior to this time, has already overlooked expeditions of this nature in its desire to avert a war. The Council has, however, already intimated with reluctance that it will endeavor in the declaration accompanying the resolution to satisfy the Japanese concerning this point by some reference to it. Though some opposition on the Council exists, I believe Briand can achieve this. Matsudaira has agreed with me that if he can accomplish it the present Japanese demand to include the reference to bandits in the resolution itself will be withdrawn and the Japanese will be content with a reference to this matter by Briand in the declaration. Therefore, unless unexpected happenings occur around Chinchow contrary to the Japanese Government's wishes and orders, daylight appears to be in the offing.

The Chinese announcement which was made public last night, as suggested by me, has pleased Matsudaira. [Dawes.]

SHAW

793.94/2969 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, December 1, 1931—5 p. m.

[Received December 1—10 a. m.]

My November 24, midnight; and Department's 120, November 25, 4 p. m., to Nanking.

Instructions contained in the Department's 123, November 27, 1 p. m., to Nanking, have been transmitted to American Military Attaché at Chinchow.

I have just seen Koo who tells me that apparently there has been a misunderstanding in regard to the situation at Chinchow on the part

³¹ See *Foreign Relations*, 1916, pp. 483-597, *passim*.

of the Japanese. He states that the Japanese refused to accept the proposal of the Council of the League in regard to military observers and has so notified Briand. He informed me that the Japanese Minister called upon him yesterday and brought up the question of Chin-chow, intimating that Japan had accepted tentative suggestion of Dr. Koo contained in my November 24, midnight, as a formal proposal and was demanding that Chinese now evacuate territory up to and inside of Great Wall at Shanhaikwan, Japan undertaking not to send troops into areas thus evacuated but reserving the right to despatch troops into such area or beyond in case of bandit activities or emergency.

[Paraphrase.] The misunderstanding seems to have arisen from the fact that the French Ambassador in Japan communicated to Tokyo the proposal as a formal one on the part of the Chinese. The situation at the moment is that the Council's proposal has been accepted by the Chinese who have instructed their military at Chin-chow to work along this line with the foreign military observers. The Japanese have not accepted the Council's proposal, but they state they have accepted the Chinese proposal of November 24. The Japanese Minister informed Koo that if the Chinese refuse to abide by what he calls the November 24 proposal, the Japanese military will be incensed and a dangerous situation may again arise. The foregoing is for your confidential information. [End paraphrase.]

JOHNSON

793.94/2976 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, December 1, 1931—5 p. m.

[Received December 1—1:40 p. m.]

825. From Ambassador Dawes: Referring to Department's No. 609 of November 30.³² The Italian representative called upon me this noon in regard to a delegate of his country joining the commission, and I informed Scialoja in the Under Secretary's words that my Government would naturally not object to an Italian member on the commission, since its appointment is entirely a League of Nations matter. [Dawes.]

SHAW

³² Not printed.

793.94/2987 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 1, 1931—6 p. m.

[Received December 1—4:42 p. m.³³]

826. From Ambassador Dawes. Following is report from Sweetser:

"The Drafting Committee completed this morning for submission to the Twelve tonight the final text of the resolution taking account to the greatest possible degree of changes suggested by both the Chinese and the Japanese. Two points only need be emphasized before this final text is approved and forwarded tonight. First, there is no mention in it of Japan's demand for the right to take police measures against bandits. Second, the number of members of the commission as recommended to the Twelve is five.

The Committee also considered both the policy and the actual text of the declaration to be made by the President. After some discussion it was felt best to recommend dividing this declaration into two parts. The first part would be a somewhat formal statement on certain points either included in or excluded from the resolution. This declaration would at least in substance be explained to the parties in advance and certain sections of it especially that inserted for the Japanese regarding police measures before evacuation and that for the Chinese regarding observers might even be given to the Chinese Government [*Chinese and Japanese?*] in full for advance transmission to their Governments. Having been thus negotiated and presented before the adoption of the resolution this declaration would have a decidedly formal character.

The second declaration would be very much less formal and would be made after the passage of the resolution. It would cover certain broad aspects involved in this dispute such as the use of force in diplomatic negotiations, the general philosophy of peaceful settlement, and possibly specific relation to the three great documents involved in the Covenant, the Kellogg Pact and Nine-Power Treaty. The text is now in process of being drafted.

Returning to the first declaration, the most important paragraph is that regarding police measures. It is not yet known whether this will be satisfactory to the Japanese either in being relegated to the declaration or in its actual drafting. That drafting as it stands at present and as it has been informally transmitted to the Japanese is as follows:

"There is, however, one point which requires elucidation. In the special conditions prevailing at present in Manchuria the administrative machinery of government is seriously compromised. There are districts in which many bandits and lawless bands endanger the lives and property of the inhabitants some of whom are Japanese subjects. In these circumstances it has been strongly pressed upon the Council that it may prove necessary as an exceptional measure for the Japanese Government during the period before evacuation is completed to take, if such a danger renders it necessary, police measures sufficient to provide directly for the safety of its subjects. In the very exceptional conditions that prevail, the Council could not take upon itself to rule out altogether action of that kind. Nevertheless, and even assuming that such action is confined strictly to police

³³ Telegram in five sections.

purposes, it is liable to lead to grave misconception and the increase of tension between the two countries concerned. I am glad, therefore, to learn that both Governments are ready to give an opportunity to neutral observers to accompany any operation of the kind. This is really only the special application to this case of the general invitation given to neutral observers by both Governments.[']

The next most important point was the paragraph aiming to give satisfaction to the Chinese that the system of observers as already instituted would be really effective in case of emergency. As the Council resolution requested only its own members to send in information or inferentially to cooperate in this work it was suggested that the declaration might go further and invite other governments to do the same. There was some discussion as to whether it would be wise in this connection to specify by name the United States in view of the fact that its observer was already collaborating fully on the spot. On being asked my personal opinion in the matter I expressed the view that, while this cooperation was in fact effective it might be appreciated if it were not specifically mentioned by name. Drummond also thought it might be better from the Japanese viewpoint to be vague.

Other important provisions are being drafted for this declaration, leading off with a paragraph on evacuation and concluding with a section on the duties and organization of the commission. The Drafting Committee is completing this text at 3:30 for submission to the Twelve at 6, with the hope of sending the final resolution and parts of the declaration to the parties tonight for transmission to their Governments.

Meanwhile the text of the *aide-mémoire* presented by Yoshizawa to Sze last night on the evacuation of Chinchow and the creation of a neutral zone has been made privately accessible. The *aide-mémoire* begins by recalling that Yoshizawa had on November 29th requested the President of the Council 'to be good enough to employ all his efforts in order that an accord may be rapidly concluded'; recalls the discussions of Shidehara with Martel on the basis of Koo proposal; and cites Japan's four conditions as follows:

- (1) Retreat of Chinese forces behind the Great Wall;
- (2) Maintenance of Chinese administration in the evacuated zone;
- (3) Abstention of the use of all irregular or disorderly elements;
- (4) Entering into immediate negotiations between the Chinese and Japanese authorities as regards (a) determination of the zone from which the troops are to be withdrawn; (b) fixation of the number of Chinese troops necessary for order, particularly against bandits; and (c) other details.

In these conditions Japan would be ready to take an engagement that her troops would not enter the evacuated zone except in the unforeseen case of serious and urgent circumstances threatening the security of Japanese subjects and property in the north of China as well as the security of Japanese troops stationed there. The note concludes:

"The Japanese Government believing that the rapid conclusion of such an agreement is of the highest importance, given the gravity of the present situation,

the representative of Japan urgently begs the President of the Council to be good enough to make every effort for the prompt realization of this project.'"

[Dawes]

SHAW

793.94/2975 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, December 1, 1931—6 p. m.

614. For Ambassador Dawes: Embassy's 824, December 1, 4 p. m. On the subject of bandits, whatever may be included in either the Council's resolution or the Council President's statement, I hope the reference may be limited to the protection of Japanese subjects. In your previous telegrams the suggestions concerning such a statement have appeared to refer instead to the indiscriminate chasing of bandits seemingly in areas outside of the Japanese railway zone, and this would be a very dangerous admission.

If the putting down of banditry is to be referred to at all, this Government would much prefer to have it included in the Council President's statement rather than in the Council's resolution.

STIMSON

793.94/2988 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 1, 1931—11 p. m.

[Received December 1—10:55 p. m.³⁴]

827. From Ambassador Dawes. Following is Sweetser's report:

"The twelve members of the Council other than the Chinese and Japanese representatives tonight formally approved and transmitted to the two parties the draft resolution as presented by the Draft[ing] Committee. The text is as follows:

"The Council,

(1) Reaffirms the resolution passed unanimously by it on September 30th, 1931, by which the two parties declare that they are solemnly bound. It therefore calls upon the Chinese and Japanese Governments to take all steps necessary to assure its execution, so that the withdrawal of the Japanese troops within the railway zone may be effected as speedily as possible under the conditions set forth in the said resolution.

(2) Considering that events have assumed an even more serious aspect since the Council meeting of October 24th, notes that the two parties undertake to adopt all measures necessary to avoid any further aggravation of the situation and to refrain from any initiative which may lead to further fighting and loss of life.

³⁴ Telegram in five sections.

(3) Invites the two parties to continue to keep the Council informed as to the developments of the situation.

(4) Invites the other members of the Council to furnish the Council with any information received from their representatives on the spot.

(5) Without prejudice to the carrying out of the above-mentioned measures, Desiring, in view of the special circumstances of the case, to contribute towards a final and fundamental solution by the two Governments of the questions at issue between them,

Decides to appoint a commission of five members to study on the spot and to report to the Council on any circumstances which, affecting international relations, threatens to disturb peace between China and Japan, or the good understanding between them, upon which peace depends.

The Governments of China and of Japan will each have the right to nominate one assessor to assist the commission.

The two Governments will afford the commission all facilities to obtain on the spot whatever information it may require.

It is understood that should the two parties initiate any negotiations these would not fall within the scope of the terms [of reference] of the commission, nor would it be within the competence of the commission to interfere with the military arrangements of either party.

The appointment and deliberations of the commission shall not prejudice in any way the undertaking given by the Japanese Government in the resolution of September 30th as regards the withdrawal of the Japanese troops within the railway zone.

Should the engagements taken by the two parties according to the resolution of September 30th not have been carried out by the time of the arrival of the commission, the commission shall as speedily as possible report to the Council on the situation with such recommendation as it may think fit.

(6) Between now and its next ordinary session, which will be held on January 25, 1932, the Council, which remains [*will remain?*] seized of the question, inviting its President to follow the question and to summon it afresh if necessary.

Paris, December 1, 1931.'

The Twelve also approved the principal parts of the President's declaration regarding evacuation, police measures pending evacuation, military information, and the sections on the commission of inquiry other than constitution. The only change in the text previously transmitted on police measures was the addition in the third line after Manchuria of the phrase 'as a result of recent events'. It was felt best to transmit the text as so far drafted, to the parties 'for information' in order to avoid the danger of a possible incident.

A general exchange of views then followed to serve as guidance to the Drafting Committee tomorrow in its preparation of the part of the declaration regarding the membership of the commission. The Peruvian representative raised the question as to the countries from which the members were to come and urged that the general world-wide nature of the League be borne in mind. Colban felt that the almost exclusive consideration should [be?] the qualifications of the members regardless of nationality though certain nations were clearly indicated by knowledge and experience as the most likely to provide capable men. Madariaga agreed with this with the urgent hope, however, that, if five members were decided upon, one should be from a neutral country without direct interests, which he disclaimed any intention of saying should be his own. Scialoja said the first consideration must be ability but that the weight and power of the country from which the members came would also have a great importance. Cecil then made an earnest plea for the highest type of membership possible to attain. The task would be a very difficult and responsible

one. It centered about a dispute involving two great nations, one of 60,000,000 people and the other of nearly 400,000,000 who had had long years of bitter hostility which had now become very acute. The peace of the Far East was certainly at stake and perhaps that of the world. It was estimated to have a personnel of the very highest type and desirable to have nationals carrying the weight of countries known and interested in the East. He begged his colleagues not to go above five; the more men there were, the more differences of opinion there would be. He agreed that experts as such should not be included; he thought it possible however to secure big men with expert knowledge. In this connection there is a great deal of private discussion as to a possible American choice and as to whether or not the United States Government would care to make a recommendation or be consulted unofficially on the subject.

The Drafting Committee meets tomorrow morning to finish the President's declaration and the Twelve tomorrow afternoon."

[Dawes]

SHAW

793.94/2993 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 2, 1931—10 a. m.

[Received December 2—7 a. m.]

1030. Legation's 1027, December 2 [1], noon. Following two telegrams from the Military Attaché at Chinchow:

"Chinese commander reports that Japanese forces withdrawn to Liao River. Railway between Tahushan and Hsinmin broken. Liaison with Japanese commander from this side impossible. No increase in or movement of Chinese troops. Am prepared to cooperate with colleagues but threats to this area removed and all awaiting instructions. War Department funds available not sufficient permit me remain much longer."

"December 2, 2 a. m. In effort to carry out suggestion of Department forwarded by American Minister through you we are trying to get an observer through to Liao River from here in attempting to obtain actual facts of withdrawal. As all communications are cut off to Hsinmin, observer will probably fail to get through. Suggest that you might ask Mukden Consulate General to ascertain facts withdrawal from Mukden."

Repeated to Nanking.

For the Minister:

PERKINS

793.94/2990 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 2, 1931—11 a. m.

[Received December 2—2:40 a. m.]

1031. Legation's 1028, December 1, 1 p. m.³⁵ Following from American Consul General at Mukden :

"December 1, 1 a. m. Referring to my telegram of November 30, 6 p. m., movement of Chinese troops on Tsitsihar from Hailun officially confirmed. Because of the threat to the safety of 500 Japanese troops remaining in Tsitsihar, headquarters despatched two battalions of reenforcements from Mukden this morning.

2. Referring to my telegram of November 30, 2 p. m., Japanese headquarters reports continued heavy movement of Chinese troops north of the Wall, two troop trains leaving Kowpangtze yesterday.

3. Officially announced all Japanese forces except usual consular guard at Hsinmin have been withdrawn east of the Liao River .

4. Peiping-Mukden Railway traffic still suspended. Bridge at Paikipu blown up by Chinese rebels.["]

For the Minister :

PERKINS

793.94/3002 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 2, 1931—8 p. m.

[Received December 2—7:27 p. m.³⁶]

833. From Ambassador Dawes. Following is report from Sweetser :

"Massigli outlined to the Drafting Committee today Briand's intentions regarding his final declaration after the adoption of the resolution. He planned to stress that the League's first duty had been to preserve peace and that it was operating under article 11 requiring the consent of both contesting parties. The result therefore should not be taken as a model settlement but as a wholly exceptional one due to exceptional circumstances. He planned also to mention the other treaties involved in the Kellogg Pact and the Nine-Power Treaty and to stress the general doctrine of the League for peaceful settlement in contradistinction to the use of force. Cecil submitted some notes to meet the Japanese contention that they had not broken the Covenant because they had not resorted to war. He felt they had committed acts of war which certainly constituted a violation of the whole spirit of the Covenant as the acts put the question of war and peace entirely out of the control of the initiating state.

³⁵ Not printed.³⁶ Telegram in three sections.

A sharp diverse view then developed as to the nationality of the members of the commission. Madariaga said he had just been informed that the Germans who had hitherto not asked to have a national on the committee now said that if the other four great powers, Britain, France, America and Italy were to be included it would hardly be fair to leave Germany out. Whatever the decision on this point Madariaga felt it would not be right to make the commission exclusively of great powers' nationals without any national from a small power without special interest in Asia. He urged that someone without direct material interests be included to represent the purely general and disinterested point of view and felt himself under obligations to press this view in the light of the general interests of the League, even if it had to go to a public meeting.

Drummond pointed out that the Japanese were willing to have a small power especially interested, either Holland or Belgium, but felt that in a matter of vital importance to themselves they could not look with favor on the choice of a national from a small power having purely theoretical interests. Cecil strongly contested Madariaga's view, saying there was no reason to assume that nationals of the great powers would not represent the general League viewpoint and that to argue for a representative of the small powers was equally to argue a special political affiliation. He urged that men be chosen regardless of nationality.

After many different suggestions for turning this difficulty, for instance, by appointing three members plus a president, or by automatically choosing nationals from the other seven powers engaged in the Nine-Power Treaty, a temporary compromise suddenly developed by which the Committee decided that, as the commission was of such vital concern to both Japan and China, the wisest and the fairest course would be to sound out the representatives of the two countries concerned and see if they had any suggestions which might help the Committee in its difficulty.

The only other development of the morning was the submission to Briand by the Japanese of a revised *aide-mémoire* on the situation at Chinchow, which is interesting as adding the two following conciliatory paragraphs:

"The Japanese Government, in making the above reservation (on possible police measures) does not do so with the thought of any probable eventuality. It has in mind only the possibility, in its eyes extremely improbable, of events of such gravity and urgency that in view of its responsibility for the security of its nationals and soldiers, it might find itself in the absolute obligation of having recourse to measures of an imperious and exceptional character. Should such an eventuality arise, the Japanese Government would wish not to see itself placed before the alternative either of failing in the responsibility incumbent upon it or of violating an engagement contracted by it.

It is well understood that the withdrawal of Chinese troops foreseen herein constitutes only a temporary measure while awaiting the general settlement of the Manchurian question."

[Dawes]

SHAW

793.94/3004 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 2, 1931—midnight.
[Received December 3—3:28 a. m.³⁷]

834. From Ambassador Dawes. Following is report from Sweetser:

"Cecil reported to the Twelve this afternoon that the Drafting Committee had decided that if the commission were to have the confidence of both parties it must know their views especially as to its membership. It had accordingly asked the Secretary-General to get in touch with the two delegations. The latter reported that he had tried to do so but had found neither party ready to go into this question until the more immediate question of the Chinchow zone were settled. Both felt this to be the principal issue because only on the solution of which [*this?*] all else depended.

A discussion accordingly took place amongst the Twelve upon the Japanese *aide-mémoire* and Briand's further verbal explanations. The latter pointed out that the chief Chinese difficulty seemed to be in conjunction with their demand for the inclusion of the system of observers which Japan had not been willing formally to grant. Briand had asked Yoshizawa if he could give some other guarantee before the Council which could not be represented as a third party, given the fact that Japan was a permanent member. Yoshizawa had cabled to Tokyo in this regard and finally received affirmative instructions. The Chinese seemed still to fear however that the proposal as represented would in effect take away from them the administrative control of the region. Drummond who had previously had a long conversation with Sze said that the Chinese preoccupation arose from the fear that if they were left alone face to face with the Japanese without neutral assistance, the terms would become constantly harder.

Madariaga was preoccupied lest the Council appear to give its sanction to a proposal which would destroy the last vestige of real Chinese authority in Manchuria. Whatever the origin of the present proposal, he felt its effect would be contrary to what the Council had attempted throughout to do. What it seemed to him to say was that the Japanese would agree not to advance into Chinese territory if the Chinese themselves withdrew from their own cities. One of its provisions seemed to do the very thing the Council had aimed not to do, namely, to legitimize the occupation until a final settlement was reached.

Neither Briand nor Cecil shared this view. The former stated that the Japanese proposal had been based on the Council's action to prevent contact between the forces and establish a neutral zone, a proposal further amplified by Koo. The Japanese text spoke of the 'maintenance of the Chinese administration in the evacuated zone' which obviously could not be done if Chinese control were extinguished. Cecil pointed out that for 10 days the Council had been trying to organize a method for preventing hostilities and that during that time Koo had voluntarily offered as a representative of a sovereign government to withdraw his troops behind the Great Wall on condition of certain guarantees. The Japanese had liked this suggestion

³⁷ Telegram in six sections.

and offered a definite plan which seemed to Cecil satisfactory except for the one point that it did not fix a limit to the zone on the Japanese side. He thought it would help a great deal if the Japanese could fix a definite line, say the Liao, beyond which they would not penetrate.

The Twelve decided that, as the situation was both so important and so uncertain, the best course would be to ask Sze to appear before them at once. The latter in reply to a request for his opinion, at once put a series of questions to clarify the exact meaning of proposal. He noted that the Japanese accepted 'the principle' of the project; was that adequate? Briand thought that phrase did not diminish the importance of the agreement; the Japanese had accepted the principle because the details had not then been specified. He thought however those details had now been put forward in the Japanese *aide-mémoire*.

Sze then asked who was to decide if the circumstances mentioned by the Japanese were sufficiently serious to justify their entering the zone? Briand admitted that this last resort was one that had been faced throughout but pointed out that the possibility would exist only during the occupation, that it could eventuate only under the most unusual circumstances, that it would be controlled by the observers and that in these circumstances arbitrary action would hardly be possible.

Sze then read his instructions on what apparently was his principal point that the neutral observers must be maintained at all costs. Indeed the proposal could be carried out only with their presence. They must be on hand to survey the situation; the policing of the zone could be entrusted to a special corps directed by them. China was willing to go very far to avoid a conflict; if however Japan failed to accept some such basis as this and proceeded to attack, the Chinese troops would resist, and the responsibility would be Japan's.

Briand however urged that the Japanese proposal was even more advantageous to the Chinese; it provided for evacuation on the conditions China habitually urged, namely, maintenance of Chinese authority and direct negotiations on security. He pointed out that when the Japanese had refused the intervention of observers the Council had tried to meet China's difficulty and secure adequate guarantees for her in another way which had taken the form of an engagement before that Council. Such an engagement would have a very great value to China for though the observers would not appear in the agreement they would still in fact remain on the spot. Cecil agreed that the guarantees offered were very substantial and that the Chinese might feel entirely secure unless of course wholly unforeseen circumstances arose.

Sze raised the question as to the exact delimitation of the zone which Briand agreed must be settled. He asked what was meant by the 'other details' which were to be included and welcomed Briand's suggestion that he would secure precision thereon. He also wanted to know exactly what the undertaking to be given by Japan would be and was assured by both Briand and Cecil that it would take the form given in the Japanese *aide-mémoire*. He asked if in case the agreement were adjudged violated the Japanese would go to the Council before acting on their own initiative and was informed by both Briand and Cecil that in such an event, the circumstances would certainly be so

highly exceptional that Japan could hardly be expected to await an arbitration. The Council however would be the depository of the agreement; if it were ever called into question the Council would certainly act at once. Sze also asked if the security mentioned meant security in the limited sense and was assured that it did.

Finally, in connection with the issue in reference to North China Sze offered a new and interesting suggestion. In order to assume tranquility at Tientsin, he said he had been instructed to request the creation there of an international council at whose disposal China would place a battalion of highly trained treasury guards to be directed by foreign officers appointed by the Council but serving at China's expense. This arrangement would cover the whole urban area and would again demonstrate China's desire to do everything in its power to prevent an aggravation of the situation. Briand thought this suggestion very interesting but somewhat outside the immediate question of Chinchow. He considered it might best be handled directly by representatives on the spot.

Sze stated at the end of the meeting that he would refer all these points to his Government. Briand made a plea to him to give the project his personal support and attempt to secure the agreement of Nanking. The constant appearance of new problems and the unavoidable delay in seeking instructions from Nanking and Tokyo are however destroying the expectation of finishing the Council session this week."

[DAWES]

SHAW

793.94/3007 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 3, 1931—11 a. m.

[Received December 3—5:30 a. m.]

1035. Following from American Consul General at Harbin :

"December 2, 11 a. m.

1. Group of Tokyo foreign military attachés in uniform, including American, arrived at Harbin at 8 a. m. and left for Tsitsihar at 3 p. m. yesterday escorted by Japanese military.

2. Local Chinese authorities disappointed that they were given no opportunity by the Japanese escort to expound their views to attachés."

For the Minister :

PERKINS

793.94/3003 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 3, 1931—noon.

[Received December 3—5:30 a. m.]

1037. Department's 443, November 30, 11 a. m. Following telephone message from Colonel Margetts this morning :

"Lieutenant Aldrich reached Liao River yesterday and reports all Japanese forces have been transferred east of the river, except 300 for guard duty at Hsinmin and to patrol railway between Hsinmin and Paikipu. It is expected that the railway between Tahushan and Hsinmin will be repaired by the Chinese today or tomorrow. Aldrich returns to Chinchow today."

Repeated to Nanking.

For the Minister:
PERKINS

793.94/2244 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, December 4, 1931—6 p. m.

451. Department's 364, October 7, 5 p. m., paragraph 2, and your 799, October 21, 8 a. m.,³⁸ in regard to the radio station at Mukden.

The Consul General at Mukden may, if the Radio Corporation of America still so desires, bring to the attention of the Japanese Consul General at Mukden the interest of the Radio Corporation in the radio station at Mukden and the losses reported by the Radio Corporation as a result of closing the station. He should not, however, furnish the Japanese authorities with a copy of the contract or with technical information in regard to the station. Inform Tokyo of action taken.

STIMSON

793.94/3036 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 4, 1931—midnight.

[Received December 4—11:50 p. m.³⁹]

841. From Ambassador Dawes. Following is report from Sweetser :

"The Chinese and Japanese replies to the draft Council resolution were received here today. Sze informed Drummond that China would accept the resolution as it stood without amendment provided of course Japan did the same. The Japanese delegation asked that Ito might appear before the Drafting Committee tomorrow morning to discuss the Japanese reply rather than that the Council follow the procedure originally arranged of having Yoshizawa meet with the Twelve at noon.

The twelve members of the Council held their first meeting in the last 2 hours from 6 o'clock to 8 discussing exclusively the Chinchow situation. Briand reported that certain soundings with the Chinese as to the Japanese memorandum on that subject showed the greatest misgivings. There had been strong opposition in China to its terms

³⁸ Latter not printed.

³⁹ Telegram in six sections.

including street manifestations. The Chinese had now presented a counter *aide-mémoire* giving the text of Koo's proposals to the three powers, stating that one Government had replied unfavorably and the other two not at all and that therefore no definite proposal had been made, as the three Ministers in question understood. Koo was stated to have informed the Japanese Minister at Nanking yesterday, in reply to his request that Chinese troops be withdrawn to Shanhaikwan in view of the withdrawal of Japanese troops, that China had already accepted the Council's plan of having neutral observers serve as liaison between the Chinese and Japanese forces and that the matter was now in the hands of those observers. Koo was said to have added that if Japan were really apprehensive of the intentions of the Chinese troops China would give assurance to the Council that her troops at Chinchow would not move forward towards the Japanese and would accept the recommendations of the neutral observers to make this assurance effective. In these circumstances, he had observed, if the Japanese troops do not leave the railway zone again there can be no possibility of a clash.

Briand added that the Chinese seemed to think the situation at Chinchow is now regulated and the proposed action of the Council met. He himself felt that through the presence of the observers a considerable neutral territory had been disengaged where peace and order prevail. The observers he said are active and effective; his last telegram today showed the existence of a real neutral zone. He felt there was no danger at the moment of a grave conflict.

He also reported a conversation this afternoon with Yoshizawa who begged the Council to intervene to urge China to accept direct negotiations and to withdraw to the Great Wall. He replied that it would be a delicate matter for the Council to press the Chinese to evacuate their own territory and pointed out that the danger of a clash no longer existed. He would urge the two parties to let the situation at Chinchow rest and get ahead with the resolution. Yoshizawa however replied that he had no instructions in this connection.

Briand then asked his colleagues which course they wished to follow, to consider Chinchow as settled by the observers and thus get on with the resolution, or to continue with the purpose of further clarifying the Chinchow situation. In other words, should the Council take the position that the neutral zone was satisfactorily settled and that there was no danger of conflict or should it attempt to bring pressure on the Chinese to evacuate entirely? He seemed to incline to the former.

Cecil approached the problem somewhat differently. He had told Matsudaira that there seemed to him two aspects of the question: first, the neutral zone itself, the details of which could be arranged in direct negotiations with the Chinese; and second, the guarantee that Japan would give to the Council as to penetrating that zone. The first point that must be cleared up he thought was the actual demarcation of that zone; the Chinese side was to be the Great Wall but what would the Japanese side be? Obviously to be a real zone there must be a limit somewhere, whether the Liao River or otherwise, beyond which the Japanese would not go. The creation of such a zone would be of the greatest value both to the Chinese and the Council. Without it China would be at the mercy of the Japanese as she had only 17,000 combatant troops around Chinchow who would be quite unable to withstand the

Japanese. Any understanding therefore would be to her advantage. The predominating consideration which the Council must have in mind was that the Japanese military were still pressing to march to Chinchow and were being restricted only by the greatest effort. If the Council could get a real guarantee that the Japanese would undertake no further invasion of Chinese territory it would be a real accomplishment. On the other hand, if the Council did not secure this guarantee but passed a general resolution and the Japanese moved forward a few days afterwards the situation would be disastrous.

Fotitch favored considering the neutral zone as in fact established. He thought that if the Council asked new guarantees it would meet the same old difficulties. Also he doubted if the Council should take on itself the delicate task of asking China to evacuate its own territory.

Drummond pointed out that the Japanese *aide-mémoire* had offered the definite condition that Japan['s] troops would not go into the neutral zone to do police work but only in case her subjects or troops in North China were endangered. Briand had previously remarked that this condition had greatly disturbed the Chinese; they could not understand what seemed to them a wholly new policy of Japan's going to the protection of her nationals by a long overland route rather than by the usual way by sea. Drummond also stressed that if the Council did not find a solution for the Chinchow matter the Japanese would certainly march in.

Briand continued to express disquietude regarding the lack of clarity as to Japan's intention. He had kept trying he said to get some kind of definition from Yoshizawa as to the limits of the zone but had not been able to get any satisfaction. Also he was not quite certain how real a zone the Japanese had in mind to create, for, though they spoke of not entering it except to go to the aid of their nationals in North China, they seemed to have certain reserves. Finally he was disturbed at their reluctance to keep the Council informed in case they should enter into direct negotiations. He thought the Council could not afford to have any possibility of misunderstanding.

Madariaga had been greatly impressed by Cecil's argument that a clash now might negative 3 whole weeks of effort. In view of the Japanese memorandum, he thought the Council could recommend direct negotiations to the Chinese provided the essential points were cleared up. He thereupon presented a definite proposal to this effect, which Cecil thought the Japanese might be willing to accept provided it involved a direct agreement with the League and not an agreement with the Chinese under the League, which seemed to be very distasteful to the Japanese.

A discussion then followed on procedure. Cecil urged that the Council must get on with its work, that its members had now been here 3 weeks, and that the time had come to hasten matters somewhat without this endless reference to Tokyo and Nanking. He urged a public meeting very shortly, saying the League had always succeeded where it had used publicity and often failed where it had not. After Briand had pointed out that it would be most unfortunate if, after all this time the Council held a public meeting only to hasten matters, the parties say they had no instructions, the Twelve decided that the best course would be to send an immediate letter to Yoshizawa tonight saying that they would be prepared to comply with the Japanese

request that they urge direct negotiations upon China provided they had certain clarifications as to the scope of the negotiations intended.

A communication was accordingly drafted and despatched immediately afterwards. After stating the Council's willingness to take this action and its understanding that nothing in these negotiations would affect the engagements undertaken in the September 30th resolution, the communication welcomed the proposal in paragraph 6 of the Japanese memorandum that Japan was willing to make a declaration before the Council that in future troops would not enter the neutral zone and requested a more exact definition of the limits of that zone. The Council understood from the memorandum that during these negotiations Japanese troops would not enter the zone except for temporary emergency."

[Dawes]
SHAW

793.94/3043: Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, December 5, 1931—1 p. m.

[Received December 5—10:25 a. m.]

843. From Ambassador Dawes: Wellington Koo has telegraphed Sze to state in effect that his Government has not agreed to the withdrawal of Chinese troops south of the Great Wall, thereby upsetting the discussion of a neutral zone status. Koo's accompanying statement to Sze regarding the condition of Chinese public feeling and the statement Koo wishes Sze to make to the League Council indicate that the Nanking Government is unable to control its policy and at present is in a similar situation to that of the Tokyo Government before Baron Shidehara and the Japanese military element reached their understanding leading to a partial withdrawal of Japanese troops.

The Japanese representatives in Paris have received lengthy instructions from Tokyo which have not yet been communicated to anyone, but it is expected that the Japanese position will be made known today. Further procedure of course is dependent upon this position. Apparently the best to be expected from the Chinese will be their acquiescence in the *status quo* in troop locations, both Chinese and Japanese. On the other hand, it is Drummond's belief that the Japanese will maintain that their troops were withdrawn east of the Liao River on account of the Chinese promise to evacuate Chinese troops inside the Great Wall, but the Chinese now deny this.

In view of the foregoing, probably matters may move rapidly here today. [Dawes.]

SHAW

793.94/3045 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 5, 1931—3 p. m.

[Received December 5—12:20 p. m.]

844. From Ambassador Dawes: The Japanese have taken a position before the Drafting Committee this morning, first, that Tokyo is definitely opposed to linking up the commission with evacuation, but after strong pressure from the Committee Ito agreed to consult with his delegation as to whether any possible formula could be found; second, that Tokyo also insists on a clear recognition of Japan's right to take police measures against bandits. Again, however, he agreed to present to his delegation Cecil's suggestion that the whole matter of bandits be dropped out of the resolution or declaration and covered in a statement by the Japanese delegation to accompany the resolution to which the other members of the Council maintained liberty to reply as they may deem necessary. [Dawes.]

SHAW

793.94/3047 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 5, 1931—4 p. m.

[Received December 5—2 p. m.⁴⁰]

845. From Ambassador Dawes: Following is text Chinese memorandum handed to Committee of Twelve this morning:

"The special diplomatic commission as the result of careful deliberation has formulated the conclusions and observations indicated below:

1. China cannot accept the Japanese proposal for a neutral zone at Chinchow.

2. The action of the Council on November 26 leaving to neutral observers the task of avoiding a clash between the Japanese and Chinese forces is deemed to have settled the Chinchow question.

3. It is again pointed out that Great Britain, France and the United States not being favorably disposed to the idea of their taking a guarantee from Japan the conversation with the Ministers of these powers in Peiping did not result in any proposal along this line by China.

4. Assuming the sincerity of Japan's declaration that she has no intention of attacking Chinchow and assuming that Japan keeps her forces, which have now been withdrawn from the neighborhood of Chinchow, within the railway zone obviously the possibility of a clash is eliminated. Furthermore, an advance by Chinese troops in Chinchow in the direction of the Japanese stations is no part of Chinese policy.

5. The people of China would view with surprise any yielding at this time by the Council to Japan's request for a withdrawal of Chinese forces from China's own territory.

⁴⁰ Telegram in two sections.

6. The reservations embodied in the Japanese proposal are so broad as to permit complete occupation of Manchuria by Japan. Clause 4, for example, contains a reservation which makes the entire scheme worthless from China's point of view. Furthermore, the conditions may be regarded by Japan as relating to local district administration rather than provincial government or to some type of administration subservient to Japan; and Japan might claim the right to exclude certain classes of troops.

7. As already cabled the laying out of a buffer zone cannot under the decision of the Central Political Council be acquiesced in by China unless some effective arrangement is concluded whereby the guarantees of organized units of foreign powers are provided. It must be understood that if Japan attacks Chinchow and Council is ineffective appropriate measures of self-defense by China are inevitable.

8. This so-called question of Chinchow ought to be disassociated from the plan contemplated by the Council's resolution because it is evidently raised by Japan for the purpose of side-tracking the real issue of evacuation.

9. The neutral zone conception not only has no support in China but public feeling is running high against it. Both the Government and informed opinion generally consider the withdrawal of Chinese forces from Chinchow within the Great Wall is nothing short of an abandonment of China's last position in Manchuria.

10. The foregoing statement of China's position should be at once conveyed to the Secretary-General of the League for circulation to the members of the Committee of Twelve.

Chinese Delegation, Paris, December 5, 1931."

[Dawes]
SHAW

793.94/3052 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 5, 1931—6 p. m.

[Received 10:44 p. m.⁴¹]

846. From Ambassador Dawes: Following is report from Sweetser:

"Ito appeared before the Drafting Committee this morning with the suggestions from Tokyo as to the resolution and the President's declaration which he frankly stated did not constitute good news.

The only amendment suggested to the resolution was the omission of that part of the fifth paragraph establishing a link between the commission and evacuation. Ito explained at length the spirit in which his Government had proposed the commission which it felt to be a very constructive idea. Japan, he said, had cooperated with the League most faithfully ever since its inception but that had naturally applied to matters predominantly in Europe. Japan felt however that the League's work should be extended outside Europe but necessarily adapted to a somewhat different basis. Last year when the

⁴¹ Telegram in seven sections.

technical collaboration with China was suggested Japan had welcomed the proposal in this spirit. Her Government felt that the League should begin in this way and little by little gain ground until it could enter the political field.

Now however the League was face to face with a problem of the utmost complexity. Japan regretted that it had come so quickly but felt that the best way to initiate this political cooperation was to make 'a vast inquiry' to bring out the whole situation in the Far East. His Government wished consequently a commission not of technicians or experts but of statesmen commanding the confidence of the whole world. In this way the double objective would be secured of effecting a better understanding of the Far East and of initiating a wide co-operation between the League and that part of the world. Approaching the question in that spirit the Government had found it very difficult to accept any modifications in the text. Especially was this so in connection with the provision in question which was taken to mean a final date for withdrawal. It seemed also to contradict the previous provision that the commission should have nothing to do with military movements. If the commission were put in these terms his Government would have to reconsider the whole question of its desirability.

Cecil immediately replied that he did not understand the difficulty at all. If evacuation were completed by the time the commission arrived as Japan has constantly seemed to promise the question would not arise. If evacuation were not completed the Council would want to know the facts. Japan had constantly recognized that evacuation was desirable at the earliest possible moment and had herself agreed that the commission should have very wide powers. Consequently he could not see wherein the difficulty lies. Leger urged that Japan should not worry about the time element; evacuation was definitely stated to depend upon the fulfillment of certain conditions. Ito said he understood this; that his delegation had cabled his Government exactly these reasons which he found excellent; but that his Government maintained its view.

Madariaga pointed out that the Council also had to consider Chinese susceptibilities. They had also taken out the phrase as to the point to which the Council attaches great importance and had inserted this as a balance. Colban felt it was so evident that the commission would have to consider evacuation that, even if the Chinese had not requested this paragraph, it would have been the Council's duty to insert it as the question of evacuation was primordial. Ito said again however that his delegation had not been able to make the Government understand this viewpoint.

Drummond thought possibly the Government feared the commission's right to make recommendations and interpreted this right as being direct to the parties. In that case the recommendations could be definitely stated as to the Council. Cecil offers a redraft to the effect that, as it had not yet been possible to carry out the engagements taken on September 30th, it would be a first duty for the commission to succumb and report to the Council. He asked if it were a question of putting the matter in a way to meet difficulties which do not really exist or if the whole discussion were really useless. If the Council could meet the Japanese difficulties by redrafting, all right; if not he

thought it best to have a public meeting and thresh the whole matter out.

Ito stated quite frankly that his Government interpreted this phrase as constituting an obligation to withdraw on a fixed date and, as anticipated, evacuation by the time the commission arrived. Cecil reacted very strongly to this. Surely he said the Japanese Government could not think the commission would not investigate that question. It would be almost fantastic not to inquire into this central point and would be treating the commission as children to prevent them from doing so. He could not see what Japan's object was; it would appear to the world that Japan despite all her promises did not intend to evacuate and Ito agreed as to this danger but his Government's view was very strong.

Colban pointed out that on September 30 Japan had agreed that evacuation was so urgent that the Council could meet on October 14. Now the Council only asked that the commission report on evacuation when it arrived. This was infinitely less than Japan had already accepted. Ito agreed that that viewpoint was reasonable but his Government considered the matter as vital and this view had penetrated to the spirit of the people. There are a million Koreans in Manchuria; if Japan cannot protect them the situation between Japan and Korea would be very bad. What people are saying privately in Japan, he added, is that 36 years ago Japan had come to a good settlement with China when the three powers intervened⁴² and forced them to give up all they wanted; now again they feared the entry of foreign intervention.

Cecil concluded this part of the discussion with the request to Ito to know if the Japanese delegation had either any other drafting or any other proposal to meet the difficulty. The Committee of Twelve he said had fixed this principle and would not abandon it. Ito would have to give the commission this power and was not ready to agree to its omission. Ito promised to reply today.

As regards the President's declaration Ito submitted a new draft, the most important part of which concerned Japan's rights to take police measures. The whole last part of the declaration after the word 'subjects' would be replaced by the following paragraph, 'in these, it is well understood that the resolution is not intended to preclude the Japanese forces from taking such action as may be rendered necessary to provide directly for the protection of the lives and property of the Japanese subjects against the dangers of bandits and lawless elements. Such action is admittedly an exceptional measure, pending the restoration of normal conditions in Manchuria'.

Cecil expressed the opinion straight away that the Council would not be prepared to accept this wording and that it would be better therefore to leave out the whole paragraph. Ito then pointed out that police action against bandits was a wholly normal and usual procedure which had been necessary for many years and which was even in the interests of the Chinese. No one had ever seen any inconvenience about it; since the trouble it was even more necessary and frequent. He did not understand the Council's preoccupation in the matter nor was it

⁴² Reference is to the Franco-German-Russian *démarche* of 1895.

materially possible for Japan to attach observers to these police movements.

Cecil said the Council's fears were obvious in that the pursuit of bandits had led to the occupation of large parts of China. He understood the abnormal conditions prevailing in Manchuria and the necessity of certain police work, not least of all, in the interest of the Chinese themselves. The Japanese phraseology however would allow the establishment of a military protectorate over any part of Manchuria desired. To this of course the Council could not in any way agree. He therefore suggested leaving out the provision altogether with the Japanese making whatever declaration they wished. This would protect the good faith of the Japanese and save the Council from accepting a formula contrary to the Covenant and to international law.

Ito explained that there were two types of police action, the first, that which had been done for years for the sole protection of the railway zone, and the second, which was purely temporary, for the protection of Japanese in certain centers now occupied. He had tried to avoid police measures from in any way assuming a military form. Also he personally would have preferred not to include this provision in the declaration and his delegation had so telegraphed Tokyo, but Tokyo attached great importance to it. Cecil said it was hopeless to ask the Council to agree to this draft; some members had even doubted if they had not gone too far in their own draft. He again urged that Ito request the delegation to consider the advisability of dropping the whole matter out of the declaration, which Ito agreed to do.

Ito also suggested certain other minor changes which probably will be accepted in part."

[Dawes]
SHAW

793.94/3051 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 5, 1931—11 p. m.

[Received December 5—10:30 p. m.⁴⁸]

847. From Ambassador Dawes. Following is report from Sweetser :

"Cecil reported to the Twelve this afternoon regarding this morning's meeting of the Drafting Committee with Ito. He said he thought the Committee had been completely unsuccessful in meeting the Japanese view and had indeed been handicapped by the fact that Ito seemed to agree throughout with the Committee rather than with his Government. There still remained two questions, first as to police action, which he hoped might be omitted entirely from either resolution or declaration and left to a unilateral declaration by the Japanese, and second, what he called the pitiful remnants of the attempt to fix a time limit for evacuation, which again he thought might better be put

⁴⁸ Telegram in three sections.

in the form of a strong statement in the declaration rather than in an anomalistic phrase accepted by the Japanese for the resolution.

A general discussion then followed. Cecil said he thought the Council ought to face the fact that it had secured very little result under the mediatory provisions which are alone possible under article 11 which requires unanimity, as the parties seemed willing to do everything except agree on the same thing. The Council had however secured the commission which was of very substantial value. He himself was very discouraged by the Chinese attitude on Chinchow and was afraid China was sealing her own doom. She would either go to pieces or fall victim to the Japanese or Chinese [*sic*].

Colban was not so pessimistic. This affair was not only a startling crisis in itself but also one of the most difficult fundamental problems in the world. The Council had already prevented conflict, maintained contact and offered a way out. Briand took much the same view. Article 11 permitted only modest results at best; it could not lead to a great transformation. The Council was in the presence of two countries very firmly standing their ground; one had decided upon stern action to discipline the other. He confessed to great disquietude when the observers had been sent; now at last after much difficulty the Council had arrived at a general resolution. Acts of war had not become war; the commission would provide real information; the two peoples would accustom themselves to fraternal conciliation. He thought the time had come to complete the resolution.

The Twelve accordingly agreed to rush the resolution to completion while the situation still permitted. Accordingly it decided not to take the Chinese memorandum on Chinchow as applying to the present situation but as having been directed to the original proposals which were now out of date to enhance hope of a better arrangement for the neutral zone. It was agreed that there would be private negotiations tomorrow on the resolution with both parties; that the Drafting Committee would meet separately with first the Chinese and then the Japanese tomorrow afternoon; and that an effort would be made to bring an agreed resolution before a final public meeting Monday afternoon or Tuesday. All this is of course conditional on no explosion occurring at Chinchow and is indeed being rushed in order to forestall such an explosion.

During the discussion Mutius, the German representative, asked what the situation was as to the cooperation of the United States. Briand replied in a single sentence that on several occasions that Government had intervened along the same lines as the Council.

Considerable press agitation centering on Sze's alleged resignation which equally caused interest in official circles was dispelled by fuller information that Sze had in effect offered his resignation according to the conventional Chinese practice following a violent denunciation by Kuomintang headquarters in Europe but that his action was not expected to become effective."

[Dawes]
SHAW

793.94/3046 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 6, 1931—8 p. m.

[Received 10:35 p. m.⁴⁴]

848. From Ambassador Dawes. Following report is from Sweetser :

"It informed the Drafting Committee this afternoon of the action taken by its delegation following yesterday's meeting on the two points outstanding with the Japanese. As regards the first involving Japan's right to take police action against bandits he stated the delegation had cabled Tokyo recommending the dropping of any such provision from either the resolution or declaration and substituting in its place a unilateral declaration by the Japanese delegate. Should Tokyo agree the Japanese delegation would give the members of the Council an advance copy.

The second point involving the relationship of the commission to evacuation showed a decided difference of conception of the commission as between the Japanese and the other Council members. It explained that his Government feared that the mandate of the commission would be modified by the last paragraph of article 5. That mandate he said was very wide and would cover 'all circumstances' while if at the end a special power were added the nature of the commission would thereby be changed.

In this case Japan would have a fundamental objection and would have to reconsider the whole idea of the commission of inquiry. His Government had at the outset not been able to agree to a special committee of inquiry in the Manchurian incident because it felt that that incident was but one element developing out of a long background. It had now proposed a general commission however to study the whole relationship between China and Japan recognizing of course that one of the elements in the situation was the present Manchurian situation. To meet the difficulty he proposed a personal text which he had already cabled to Tokyo as follows: 'Within the scope of the above mandate, the commission can, after its arrival in China, be charged by the Council to furnish it information on the execution of the resolution of September 30th.'

Cecil had accepted this draft yesterday for himself; the other members of the Committee seemed inclined at first to do likewise. But difficulties soon developed. Would this mean that the Council would have to meet especially to give this authority which would seem both unnecessary and cumbersome or could the President be authorized to do it on his own? Would such action by the Council require unanimity which would reduce the provision to nothing? Would not the phraseology limit the commission and withhold what should be a normal power until that power was specifically granted? Finally, what hope would there be of getting the Chinese, who clung so tenaciously to this last remnant of a time limit for the evacuation, to accept substitutions?

It was impressed by these difficulties, particularly as to unanimity and agreed to re-consult his delegation. After his departure Cecil

⁴⁴ Telegram in three sections.

said he had suggested yesterday to Ito that it might be best to drop this from the resolution and include it in the declaration which Ito seemed to accept. If that were done Cecil pointed out the Council's ideas could be put in clear direct terms, which would satisfy the Chinese more fully and save the Japanese from their obvious embarrassment that the commission was going further than they had anticipated.

2. Military reports were circulated today and particularly commented in view of Tokyo press despatches that Honjo had warned Chang to withdraw from Chinchow. The French observers in that district report that there has been no appreciable change since November 27th: the number of troops remain the same; the trains are running regularly; and no requisition of wagons for the transport of Chinese troops has been reported on the Tientsin line. The British saw no evidence of the banditry alleged at Paikipu and stated there had been no movement of Chinese troops north of the Wall."

[Dawes]

SHAW

793.94/3056: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 7, 1931—8 a. m.

[Received December 7—5:40 a. m.]

1047. Following telegrams from Military Attaché at Chinchow:

"Train service of the P. M. Railway⁴⁵ resumed when arrived here from Mukden December 4, 9 p. m. British observer on train stated Japanese authorities declare they do not intend advance on Chinchow. No movements Chinese forces in this area. Japanese aircraft circles Chinchow each morning."

"December 6, 6 p. m. There has been no change in the disposition of the Chinese troops this area since withdrawal of Japanese troops to Hsinmin and Liao River. Third cavalry brigade continues to guard Tahushan-Tungliao Line. Had long interview with General Jung this morning. He states positively there have been no movements his troops since withdrawal Japanese troops and that there will be no movements other than to resist Japanese in case they should advance on Chinchow. Observers have traveled to Changwu, Hsinmin, Yingkow and to Shanhaikuan between December 2nd and 5th seeing no evidence Chinese troop movement. Daily report given out by Japanese headquarters Mukden believed to be form of propaganda intended to justify further offensive action on part of Japanese."

Repeated Nanking.

For the Minister:

PERKINS

⁴⁵ Peiping-Mukden Railway.

793.94/3128

Memorandum by the Secretary of State

[WASHINGTON,] December 7, 1931.

The Japanese Ambassador sent word that he wished to see me. When he came he began talking about the difficulties which had been created by the fact that the Chinese, after they had promised to evacuate the neutral zone in case the Japanese did so (as represented in the French note which he had left with me the other day⁴⁶), now refused to keep their promise, and he told me that this made Baron Shidehara's position very difficult because he was being accused at home of having tricked the army into retreating on this promise and now the promise has not been kept. The Ambassador intimated that it would be very difficult to withhold the army from advancing again. I at once took him up on the situation and talked to him very seriously. I said that if the Honjo army should now advance again on Chinchow, after having been recalled, it would make the matter ten-fold more clear to the American public that the advance was not to protect Japanese nationals but to destroy the last fragment of Chinese authority in Manchuria. I pointed out that it would be extremely difficult to ask China (which was evidently what he wanted me to do) to withdraw her own army from her own territory. I pointed out the entire absence of any reports of attacks on Japanese citizens in Chinchow and I said that under these circumstances if the Honjo army moved again on Chinchow a very painful situation here in American public opinion would be created. I told him that even now the press were asking what we would do in such a contingency, and that the demand would be made a great deal more insistently if it happened. I pointed out in detail the long sequence of advances by the Japanese army, accompanied in each case by representations as to their purpose from the Foreign Office which had proved to be without foundation, and I said now this final advance would clinch the opinion of the American people that the whole movement since September 18 had been not to protect Japanese life and property but to attack the Chinese army of Marshal Chang wherever it could be found. I said further that under such circumstances it would be very difficult to persuade anyone that this did not amount to a violation of the Nine-Power Treaty as to the guarantee of the integrity of Chinese territory and of Chinese administration; also that it would be very difficult to deny that the provisions of the Kellogg-Briand Pact as to settling all disputes by no other than pacific means, had been broken.

⁴⁶ *Ante*, p. 580.

The Ambassador said he had no intention of implying that General Honjo would advance at once. I then said that what I wanted to hear was that this Resolution pending before the Council at Paris had been accepted by Japan and had been passed by the Council; that there at least we would have one bit of good news. I reminded him of the importance of that Resolution in its effect on our public opinion, and the importance of an impartial investigation in Manchuria, and of a cessation of hostilities. He said that he thought we would hear good news from that in a very few days. I said that it might better be a matter of a very few hours, and I said further that if that Resolution was passed it would be far easier to reconcile Chinese public opinion to self-control than it would without that Resolution.

The Ambassador said something to me about the political difficulties surrounding Baron Shidehara from the attacks that were being made upon him to the effect that he had yielded to American pressure in causing General Honjo to withdraw. I told him that in my opinion Baron Shidehara's difficulties were nothing like as heavy or severe as the difficulties which the Chinese Government were having in explaining why they should withdraw their own troops from their own territory around Chinchow when those troops were not engaged in attacking anybody else but merely were where they had a right to be.

In summary, I asked the Ambassador to urge most seriously upon Baron Shidehara the serious effect which any new advance by the Japanese army would have upon the public opinion of this country, and the serious thought which we were already giving that problem. In the face of it I stressed also the particular importance that surrounded a prompt and successful solution of the action pending before the Council of the League and an immediate passage of the proposed resolution.

H[ENRY] L. S[TIMSON]

793.94/3092 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 7, 1931—6 p. m.

[Received December 7—3:45 p. m.⁴⁷]

853. From Ambassador Dawes. Following is report from Sweetser:

"The Drafting Committee met this morning with Sze to acquaint him with the changes suggested for the resolution and declaration as a result of the conference with the Japanese.

The principal question, Cecil stated, was as regards the relationship between the commission and the evacuation which the Japanese seemed to feel completely changed the character of the commission. All the

⁴⁷ Telegram in three sections.

other members of the Council, Cecil stated, were anxious that the commission should report on Manchuria first of all. If, however, they attempted to put the original phrase into the resolution the Japanese would vote against it. Similarly if, in order to obtain unanimity, they agreed on the modification the Japanese would demand the result would be so anaemic as not to meet either the Council's views or the Chinese. It had therefore occurred to him that it would be better to put the phrase into the declaration as most convenient.

Sze explained that his instructions permitted him to accept the resolution and the declaration in their present form. His Government attached great importance to the particular paragraph of the resolution in question. He must therefore give serious thought as to whether he could accept the transfer to the declaration without reference to Nanking. He was very anxious for an early settlement but must keep within his instructions. Just what practical difference, he asked Cecil, would the change make.

Cecil thought the change would make no real difference in practice. The choice seemed to be between a weak phrase in the resolution or a strong phrase in the declaration. Juridically perhaps an order to the commission would be changed into a recommendation but in point of actual practice the result would come to the same.

As regards police measures Cecil explained that the Japanese had proposed an alternative text which the Council could not accept. This text would have given some confirmation to the theory that one country could go into the territory of another to do the police work. As the Council had not in any case liked becoming involved in this matter it had suggested dropping the phrase entirely from the declaration and allowing the Japanese to make their own declaration which of course any other member of the Council would be free to answer as he thought fit. He thought this suggestion would be in China's favor though Sze did not comment in one way or the other.

Cecil then explained that the Council was extremely anxious to have the final meeting at the latest on Wednesday.⁴⁸ The resolution was now complete as regards the Japanese, except for the police clause. He had not formally proposed to the Japanese putting this clause into the declaration instead of the resolution until he had seen the Chinese nor would he ask the Chinese to give a final answer until he had a firm offer to make. Sze promised, however, to let the Committee know tonight what his view was.

In reply to Olds' question as to the situation concerning Chinchow Cecil said he was not at the moment very happy about it. The Council had asked Japan what would be the delimitation of the zone on their side and expected to have a reply today. He pointed out that the two negotiations, that is, on the resolution and declaration and on Chinchow were quite distinct. The Japanese had not connected the Chinchow matter with the resolution. Cecil regarded the Chinchow zone as an additional precaution to avoid a clash; the resolution and the declaration would be just the same whether the Chinchow matter was settled or not.

Sze then gave his latest information on Chinese troops in that region. He said it was materially impossible for them to have gone

⁴⁸ December 9, 1931.

as far towards Mukden as Japanese reports indicated if for no other reason than that the railroad is out of operation. The Chinese commanding officers had ordered not to attack but only to stay quite within the zone."

[Dawes]

SHAW

793.94/3093 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 7, 1931—10 p. m.

[Received December 7—8:25 p. m.⁴⁹]

854. From Ambassador Dawes. The reply submitted by the Japanese to Briand this afternoon is as follows:

"The representative of Japan, in answer to the request which has been made to him by the President of the Council, hastens to furnish to him for his confidential information the following explanations.

1. The limit of the zone to be evacuated would, on the Japanese side, be established on the Hsiaoling Ho.

This limit has been determined on the basis of Mr. Wellington Koo's original proposition in accordance with which the Chinese forces would retire from the Chinchow region to Shanhaikwan, and the Japanese forces would not enter the zone so evacuated.

2. The conversations to be undertaken with China could be very rapidly terminated. It goes without saying that during the course of these conversations our forces have no intention of entering the zone to be evacuated unless the Chinese should wilfully delay things in order to carry on hostile acts of provocation: that is a question of good sense and sincerity."

This was not acceptable to the Council on the ground that it meant in effect practically the complete evacuation of Manchuria by China and would be wholly unacceptable to that Government. The opinion was strongly expressed by Cecil that there was some reason to think that it had been put in such severe terms in order to invite rejection by the Chinese and justify aggressive measures by the Japanese. The members of the Council thereupon decided it to be a matter of urgency to take two actions: first, for Briand, in their name, to write Yoshizawa for transmission to Shidehara as quoted below; and second, to request their individual diplomatic representatives in Tokyo to make strong representations against any measures which would further aggravate the Chinchow situation. These representations will probably follow the lines of M. Briand's letter quoted below. [Paraphrase.] The particular request was made by Briand after the meeting that I be furnished with the text of this letter and that the suggestion be made to

⁴⁹ Telegram in three sections.

me that in the event the United States Government should feel able to do so its taking some similar action would be greatly appreciated by Briand. [End paraphrase.]

The Drafting Committee tomorrow morning sees Sze and a closed meeting of the Council will be held at 12 o'clock. A public meeting has been announced for Wednesday afternoon. I am to see Briand tomorrow afternoon and will wait until 6 o'clock Paris time, which is 1 p. m. Washington time, in the hope of receiving an answer to this despatch by telephone.

The following is Briand's communication through Yoshizawa to Shidehara.

"I regret that after communicating with my colleagues with the exception of the representatives of the two parties, we do not feel it possible, in view of the information given to me confidentially by Your Excellency, particularly with regard to the limits of the zone, to make the recommendation to the Chinese Government mentioned in the memorandum which Your Excellency left with me on December 1st, though if the Japanese Government found it possible to make other proposals with regard to these limits, my colleagues and I would of course be prepared to reconsider their present attitude.

My colleagues and I are in any case convinced that the Japanese Government will respect fully the resolution of September 30th particularly so as to prevent say [*any?*] aggravation of the situation. It would be deplorable if, at a moment when an agreement is well in sight which we believe will be acceptable to both parties, the situation should be embittered and even endangered by fresh outbursts of fighting. In this connection I would draw Your Excellency's attention to the proposal set out in my letter of November 29th and Your Excellency's reply thereto in which it is stated that if a danger of contact between the Chinese and Japanese troops arose, the Japanese Government would be disposed to examine attentively the suggestions made to avoid such a contact."

[Dawes]

SHAW

793.94/3094 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 7, 1931—midnight.
[Received December 7—11:02 p. m.⁵⁰]

855. From Ambassador Dawes. Following is report from Sweetser:

"Briand reported to the Twelve today that Yoshizawa had brought him a reply as to the Chinchow zone (see my 854, December 7, 10 p. m.). He felt it would be very difficult to accept this reply; the situation created by it would be very different from that actually prevailing. The Japanese line would not be on the Liao as at present but very

⁵⁰ Telegram in four sections.

close to Chinchow. Drummond added first that the Japanese had confirmed by cable that it was Tokyo's intention that China should be in control of the neutral zone, and second, that Japan did not propose that her troops should occupy the whole territory between the two rivers or be quartered beyond where they now are but that they should have the right to pursue bandits in that territory if necessary.

Cecil said that the line suggested by Japan passed very close to Chinchow. He did not see how Council could possibly suggest to China establishing a zone between the Great Wall and just beyond Chinchow. He thought the Council should reply to the Japanese that this would not be in accord with what was fair and just. More than that however he thought 'the most vehement observations' should be made by the diplomatic representatives at Tokyo; that the Council was satisfied through neutral observers and otherwise that the number of Chinese troops around Chinchow was insignificant, that there was no advanced movement by them, and consequently no danger from [to?] Japan. However diplomatically it might be put, he thought it should be brought home to the Japanese Government that an attack on Chinchow could only be considered as an aggression pure and simple.

Briand agreed that a communication be made stating what the observers had reported as to the lack of movement of Chinese troops and the lack of danger to the Japanese troops. The Council could then express the hope that the *de facto* zone which had been maintained so far with much success should continue. That zone had indeed made it possible to prevent hostilities; there was every reason for its maintenance.

Mutius remarked he had understood there was an immediate danger; was there any change? Cecil said he thought not; he was himself convinced that the Japanese military authorities were preparing an advance on Chinchow.

Madariaga reported a conversation with the President who presented two difficulties: first, as to the designation of neutral zone, with other territory which was Chinese; and second, as to the emphasis on direct negotiations. He would be glad to see the present situation continue but not under that designation. He would like to see the Council go ahead with the resolution which was broad enough to cover Chinchow and have both China and Japan make declaration before the Council that each would rest on its present lines with whatever reserve[s] regarding bandits were necessary and with a strengthening of the system of observers. He endorsed the idea of a strong note to Japan but suggested adding a constructive proposal.

Briand reiterated that in the present situation it was impossible to recommend the neutral zone as foreseen but the Council could recommend the maintenance of the present arrangement. Cecil agreed with this but thought it did not go far enough. He felt the Council could not neglect the warnings that had been given that a new advance was in contemplation. He could not help thinking that in proposing this line Japan meant to have it rejected. She could not have expected the Chinese to accept it. In his opinion the military intended to advance on Chinchow. There was no justification, military or otherwise, for such an act. He thought the Governments on the Council should urge their representatives at Tokyo to protest, in however diplomatic terms, against such action. What he feared was that the Japanese military

do not think favorably of the resolution and think that a big incident at Chinchow would kill it. He felt it would be an outrage if Chinchow were attacked when the Council was at the point of success in its mediation. Briand added that it was clear what the Japanese reply meant, namely, the occupation of the whole of Manchuria.

A discussion then followed as to the exact form of procedure. Drummond had meantime prepared a draft which was accepted in general lines, rephrased somewhat in a subsequent meeting of the Drafting Committee and despatched to Yoshizawa tonight (see my 854, December 7, 10 p. m.)

The Twelve then agreed to announce a public meeting for Wednesday afternoon with the hope of final action on the resolution. Before then the Drafting Committee would meet with Sze tomorrow morning at 11 and the Twelve at 12."

[Dawes]
SHAW

793.94/3096: Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 8, 1931—1 a. m.

[Received December 8—1:03 a. m.⁵¹]

856. From Ambassador Dawes. Following is report from Sweetser:

"Ito reported to the Drafting Committee at a late meeting tonight the reply he had received from Tokyo on the two outstanding points.

First. Tokyo accepted his redraft on the last paragraph of article 5 linking the commission with evacuation. The various members of the Committee however maintained the objections previously reported to this formula and continued their preference for a full statement in the declaration. Colban especially stressed that it would be impossible to send the commission and begin by saying that it could not do the main thing in mind unless especially authorized. Cecil felt the best solution was to put the Council's original phraseology into the declaration.

Second. Regarding police measures Ito pointed out that Japan had first wanted this provision in the resolution and then in the declaration but was finally willing to accept the third alternative of a unilateral declaration by itself, provided however there were no speeches in opposition made by the other members of the Council. Cecil pointed out that that would depend upon what the Japanese delegates said, whereupon Ito presented the following draft:

"With regard to paragraph (2) of the draft resolution now before the Council, I am happy to accept it on behalf of the Japanese Government, on the understanding that this paragraph is not intended to preclude the Japanese forces from taking such action as may be rendered necessary to provide directly for the protection of the lives and property of Japanese subjects against the activities of bandits and lawless elements rampant in various parts of Manchuria. Such action is admittedly an exceptional measure called for by the special situation prevailing in Manchuria, and its necessity will naturally be obviated when normal conditions shall have been restored in that region.['']

⁵¹ Telegram in three sections.

The Committee felt it would be impossible for the members of the Council not to be free to comment on this text. Cecil felt Japan might ask that there should not be an outcry against it but he did not think she could object if they explained their understanding of it. Drummond pointed out that the Japanese statement if passed without comment, would mean that the other members of the Council accepted it. Madariaga added that, if the Japanese made a declaration of this nature, he would have to comment at length. Cecil concluded that it would be impossible to ask twelve reasonable men not to make some sort of statement.

With this opposition, the Committee returned to the idea of including this matter in the declaration. The following text was presented and is now under discussion.

'The Japanese Government has called the Council's attention to the situation which exists in Manchuria. Following recent events banditry has increased in certain districts and constitutes a danger to the lives and property of the inhabitants. Under these circumstances the Japanese Government considers that its troops must be able to repel the incursions of bandits not only as they have done in the past when these incursions took place in the zone of the South Manchuria Railway but also in the event that attacks are made against localities outside the said zone temporarily occupied by Japanese troops. It goes without saying that as soon as these localities shall cease to be so occupied, the responsibility for their defense against bandits shall cease to be incumbent upon Japanese troops and shall once more be assumed by the Chinese authorities.'

Ito also presented certain further changes which the Committee did not feel able to accept. Most important was that to have the phrase 'as speedily as possible' stricken out from the first paragraph of the declaration relating to the withdrawal of the Japanese troops. This phrase, he said, was already included in the resolution and was hence unnecessary. Cecil, however, felt it impossible to agree to this; the Council had been asked to retreat step by step but could not go this far. Madariaga felt the suggestion would be very suspect by the other party; Leger felt that Ito's objection made the phrase all the more necessary. The Committee therefore refused to accede to the suggestion."

[Dawes]
SHAW

793.94/3091 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 8, 1931—10 a. m.

[Received December 8—12:43 a. m.]

1052. A member of the Military Attaché's office yesterday was shown a telegram to Marshal Chang Hsueh-liang from T. V. Soong stating that the negotiations for a neutral zone were likely to fail and that any Japanese attack on Chinchow should be offered utmost resistance.

For the Minister:
PERKINS

793.94/30952

*Memorandum of Trans-Atlantic Telephone Conversation*⁵²

SECRETARY: Hello, is that you General. You asked me to call you. I have your cable⁵³ and I have sent a telegram to Tokyo⁵⁴ similar to the one which was suggested by Briand but, in addition to that, yesterday afternoon the Japanese Ambassador came to see me here and in the talk he indicated that the Japanese were likely to make another move on Chinchow and I made very strong representations to him then as to what would be the effect of such a movement on American public opinion. I am sending you a copy of my *aide-mémoire* of that interview. I talked a great deal more strongly to him than Briand's proposed telegram. I concur in the inference as to what the Japanese will probably do next. It looks very serious. It looks as though they had made up their mind to drive out the Chinese forces and that will make a very difficult situation. Frankly, it is hard for me to see how the Council can with any dignity go on with their procedure if they do that.

DAWES: What is in our mind to do is this; that we feel just as you do about the intent of Japan and Sze has a new resolution over there which they are going to agree to in the meeting which they are holding now. It is just exactly what I wired to you on December 1,⁵⁵ except the last sentence of paragraph five is transferred to the declaration. They will put something about it in the resolution. I have it here and can read it to you.

SECRETARY: I doubt if that is necessary. What I want to know is what the resolution is. I understand—

DAWES: The last sentence of paragraph five goes into the declaration. Sze thinks they are going to have a meeting tomorrow afternoon and at that time they will present this resolution and at that time the Japanese may or may not agree and China may or may not, but China will probably agree. Matsudaira will probably agree to the resolution and the declaration.

SECRETARY: Do you think China will?

DAWES: That is the present program. I am going to see Briand at 6:45 tonight and will know exactly what they are going to do then. But about this Chinchow business, so far as the League is concerned they are satisfied to do as you have done and have each Government do so individually through its representatives with Japan, but they want to get this resolution out and probably it will be presented tomor-

⁵² Between Mr. Stimson in Washington and General Dawes in Paris, December 8, 1931, 12 noon.

⁵³ See telegram No. 854, December 7, 10 p. m., from the Chargé in France, p. 632.

⁵⁴ See telegram No. 259, December 8, 11 a. m., to the Ambassador in Japan, *Foreign Relations, Japan, 1931-1941*, vol. I, p. 54.

⁵⁵ See telegram No. 827, December 1, 11 p. m., from the Chargé in France, p. 609.

row even if Japan does not agree but Japan will probably agree. I saw Matsudaira just a short time ago and in fact it was only twenty minutes before you telephoned me so I told him that I would see him at a quarter of six, but I had time to ask him whether or not they were going to agree to that resolution that will be presented tomorrow afternoon and he said we are going to agree to it with reservations. I suppose that is with some unilateral reservation. I didn't have time to get back to the telephone before your call but I am going to see him an hour before I see Briand and I will give you that as soon as I talk with Matsudaira.

SECRETARY: Do you think that the Chinese will agree to it?

DAWES: I think the Chinese will agree to it from what Sze says.

SECRETARY: Do you think the resolution is likely to pass?

DAWES: I am inclined to think from what Matsudaira says that they will agree to the resolution with some reservations. Then the resolution will go forward as the attitude of the League with the exception of Japan. Then they will go away.

SECRETARY: That is good so far as it goes. Now I think when you see Matsudaira you ought to speak very seriously to him about the effect this will have on American opinion. When you see Matsudaira you ought to speak very seriously as to the effect which a move on Chinchow will have upon American opinion.

DAWES: I will do so.

SECRETARY: It will crystallize American opinion into the belief that the whole effort of Japan from the beginning has been to drive the Chinese out of Manchuria and the effect will be extremely serious. You will see from the telegram which I have sent to you about my talk with the Ambassador yesterday how we feel about it here and that is the serious part of the whole thing. The press has been holding back but has been getting ready to explode just as soon as the Japanese make that move and I can not hold them any more and we shall very soon make our statement—as soon as the resolution is passed. You need not tell him that. But very soon we shall have to come out with a statement of the entire negotiations from our standpoint which will not make any favorable impression toward Japan.

DAWES: Sweetser's report I think is very good. I sent you a telegram⁵⁶ about the discussions of the Council this afternoon about their position. You ought to get it before night. It is merely what I have said except that it is a little more informative as to how their minds are running. It is the intent of Japan to move forward but the League will get out its position as a sort of basis for the rallying of the moral strength of the work [*world?*].

⁵⁶ See telegram No. 858, December 8, 4 p. m., from the Chargé in France, p. 645.

SECRETARY: I think it is very important, if possible, to get that resolution passed with Japan's consent because I think Japan is trying to get out of that resolution so far as the neutral commission is concerned and if they give her any chance by delay, she will get out of the whole thing.

DAWES: They are going to bring it to a head tomorrow afternoon. I had hoped that they would do it this afternoon but Sze objected to that because he said he wanted to hear something more from his government. I think he has enough discretion to really join in with the thing and the Japanese have committed themselves so far to it now that it would be hard for them to withdraw but anything could happen over night. The resolution will be presented tomorrow as the attitude of all the members with the exception of Japan and China and that would have some general effect. That other statement which they propose to put in by the twelve is a statement of their position with Briand's statement and everything and China probably will acquiesce. That would leave Japan alone but it is a good thing to cause public opinion to focus on the situation. With the twelve, of course, it becomes the attitude of the League with the exception of Japan.

SECRETARY: If they fail to have a vote on it or fail to get a unanimous vote, I hope they will make clear that the original proposition for a neutral commission came from Japan.

DAWES: Yes, that is a good point.

SECRETARY: I would like that made very clear.

DAWES: I will speak to Briand about it.

SECRETARY: In case she finally goes back on it, that ought to be made clear.

DAWES: Exactly.

SECRETARY: The thing that you should make clear to Matsudaira is that this march on Chinchow will be regarded as crystallizing the whole issue against Japan. It will make clear the whole issue in a way it has not been made clear thus far.

DAWES: Another thing. Do you want me to speak to Briand tonight about that naval business? You sent me a short telegram saying that when I said goodbye to him to speak to him about the Italian naval matter. Shall I speak to him about that tonight?

SECRETARY: Won't you see him again? I don't want that. Frankly that is a matter that is not germane to this. I want you to use your own judgment about that.

DAWES: My judgment is not to do it. I talked with Massigli last night and asked him how he was getting along with the Italian matter

and he was quite evasive about it. They will decide something within a week. I had a telegram from Margett[s], the observer at Chinchow, sending me information.⁵⁸ Following the ordinary custom of limiting what Margett[s] gave us of the objections of Japan, I gave it to the Council over there to go along with the reports of their observer with information which was on the *status quo*. He called me up and I told him that I could not make that public as coming from the United States and then Drummond wanted to know whether you could not give out that information in Washington, that is, the essence of the reports of your military observers, because he thinks that is something that will exert pressure both upon China and Japan to come into the resolution. He wants the reports of the observers around Chinchow without expressions of opinion as to what Japan intends to do.

SECRETARY: I will consider that and very possibly——

DAWES: I don't want to print it here because of the reservations I made.

SECRETARY: The whole question is that I do not want to make any side issue with Japan until we get them right on the whole thing. I will do the best I can with that but I will reserve judgment on whether I will do it before the meeting of the Council. I do not want to break in on that.

DAWES: That is your telegram No. 632.⁵⁹ It has nothing to do with the Council here but just information as to what your military observer has said.

SECRETARY: Sooner or later I will make that public but I do not want to do it when it will make Japan angry enough not to vote for the resolution.

DAWES: I see, all right. I will keep you advised. You will find these telegrams that come to you today all informative. I suppose you keep up with them.

SECRETARY: I keep up with them personally. You will find the telegram about my talk with Debuchi yesterday also informative.⁶⁰

DAWES: What time will that arrive here?

SECRETARY: It has gone now. It went about half an hour ago. You will get it tonight.

DAWES: I can tell Briand the subject of it.

SECRETARY: The main thing is that I want you to get the substance of it to Matsudaira too.

DAWES: Yes, I will. I will do that.

⁵⁸ cf. telegram No. 1056, December 8, 2 p. m., from the Minister in China, p. 641.

⁵⁹ Dated December 7, 6 p. m., not printed. It transmitted news from Mukden, etc. (793.94/3056).

⁶⁰ Telegram No. 633, December 8, 2 p. m., to the Chargé in France; not printed. It quoted text of telegram No. 259, December 8, 11 a. m., to the Ambassador in Japan, omitting text of Briand's communication to Shidehara, *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 54.

SECRETARY: It is a very serious situation with public opinion. Public opinion is tending so strong against Japan that this will crystallize it.

DAVES: All right, Mr. Secretary, that is all.

SECRETARY: Yes, goodbye.

793.94/3103: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 8, 1931—2 p. m.

[Received December 8—9:20 a. m.]

1056. Following from Margetts, Chinchow:

"December 7, 6 p. m. Statement of observers, including American Military Attaché from Tokyo. Have spent the entire day personally checking units of Nineteenth, Twentieth Brigades and Thirteenth Artillery Regiment reported by Mukden Japanese headquarters to be Faku. In some instances we counted the soldiers, finding absolutely no discrepancies. Entire Twentieth Brigade is in immediate vicinity Chinchow. Referring to repair railway, Yingkow, statement of same was made by Chinese laborers under the supervision two British railway engineers and during presence one of our observers who returned late yesterday afternoon."

Repeated to Department and Nanking.

For the Minister:

PERKINS

893.00/11655: Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase—Extract]

NANKING, December 8, 1931—3 p. m.

[Received December 8—11:15 a. m.]

(2) As to the Chinchow situation: Koo's tentative suggestion regarding Chinchow was communicated in my November 24, midnight, to the Department and appears to have been communicated by the French Ambassador in Tokyo to the Japanese Government, which received it as a firm offer from the Chinese Government. The Japanese chose to take this stand despite the fact that it was Koo's intention merely to sound out the American, British, and French Governments and that Koo made his offer contingent upon Japanese guarantees to be given to these three Governments. Now the Japanese stoutly insist that, since their troops have been withdrawn to east of the Liao River, the Chinese will, if they fail to quit Chinchow, be

guilty of a breach of faith. The Chinese maintain that, never having made such an offer, they therefore are not under any obligation to evacuate Chinchow, the Chinese Government's last stand in the Manchurian territory. I understand the Japanese argue that their retirement was due to the Chinese offer, and I have been informed that the Japanese Government, through Minister Shigemitsu, has told the Chinese Government that the situation will become difficult unless the Chinese troops are withdrawn. I believe the League Council members may approach the United States with a view to having its Government, through me, in cooperation with the British and French Ministers, urge the Chinese to withdraw their forces from Chinchow. It is my hope that my Government will resist any overtures of this sort, since my British and French colleagues are in agreement with me that in the present state of affairs in China it would be dangerous for our countries at this time. To give such advice could lead only to the shifting to our countries from the Chinese Government any odium which attaches to such a policy. Nanking during the past week has been full of students from all over China agitating against the Government here regarding this matter, and feeling is running very high. There can be but one motive of the Japanese for eliminating the remnants of Chinese control centered in Chinchow, namely, to make effective throughout Manchuria the influence of Japan with a view to the encouragement of an independent régime amenable to Japanese authorities. As they have failed to achieve this by force of arms, they find it necessary to accomplish it by means of the League of Nations or the United States. I believe my Government should not permit itself to be maneuvered into such an action, and I do not think the Japanese intend forcibly to take Chinchow—certainly not if the result is obtainable through the agency of others.

JOHNSON

793.94/3115: Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 8, 1931—3 p. m.

[Received December 8—1:20 p. m.⁶¹]

857. From Ambassador Dawes. Following is text of resolution as it stands this morning. Only change in contemplation would be transfer of paragraph numbered 5 to declaration:

"The Council first reaffirms the resolution passed unanimously by it on September 30, 1931, by which the two parties declare that they are solemnly bound. It therefore calls the Chinese and Japanese Governments to take all steps necessary to assure its execution so that

⁶¹ Telegram in six sections.

withdrawal of the Japanese troops within the railway zone may be effected as speedily as possible under the conditions set forth in the said resolution.

2. Considering the events have assumed an even more serious aspect since the Council meeting of October 24, notes that the two parties undertake to adopt all measures to avoid any further aggravation of the situation and to refrain from any initiative which may lead to further fighting and loss of life.

3. Invites the two parties to continue to keep the Council, which remains seized of the question, informed as to the development of the situation.

4. Invites the other members of the Council to furnish the Council with any information received from their representatives on the spot.

5. Without prejudice to the carrying out of the above-mentioned measures,

Desiring in view of the special circumstances of the case to contribute towards a final and fundamental solution by the two Governments of the questions at issue between them,

Decides to appoint a commission of five members to study on the spot and to report to the Council on any circumstances which affecting international relations threaten to disturb peace between China and Japan or the good understanding between them upon which peace depends.

The Governments of China and of Japan will each have the right to nominate one assessor to assist the commission.

The two Governments will afford the commission all facilities to obtain on the spot whatever information it may require.

It is understood that should the two parties initiate any negotiations these would not fall within the scope of the terms of reference of the commission nor would it be within the competence of the commission to interfere with the military arrangements of either party.

The appointment and deliberations of the commission shall not prejudice in any way the undertaking given by the Japanese Government in the resolution of September 30 as regards the withdrawal of Japanese troops within the railway zone.

Should the undertakings given by the two parties according to the resolution of September 30th not have been carried out by the time of the arrival of the commission the commission shall as speedily as possible report to the Council on the situation with such recommendations as it may think fit.

6. Between now and its next ordinary session which will be held on January 25, 1932, the Council invites its President to follow the question and to summon it afresh if necessary."

I quote below text of declaration to be made by Briand as it stands this morning. Only changes in contemplation are (first) possible transfer of last paragraph of paragraph numbered 5 of resolution to Council [*declaration?*] and (second) possible addition of following new text on police measures:

"The Japanese Government has drawn the attention of the Council to the situation at present existing in Manchuria. As a result of recent events banditry has increased in certain districts and constitutes a

danger for the safety of the life and property of the inhabitants some of whom are Japanese subjects. In these circumstances the Japanese Government considers that its forces should be entitled to repulse attacks by bandits not only as has been the custom in the past when these attacks occurred in the neighborhood of the South Manchuria Railway zone but also if they occur in the neighborhood of places at a certain distance from the zone where Japanese troops are temporarily stationed for the purpose of defending the zone. It goes without saying that when these troops are withdrawn within the zone the responsibility for defending these latter places against bandits will cease to fall on the Japanese forces and will again be assumed by the Chinese authorities."

TEXT OF THE DECLARATION

"It will be observed that the resolution which is before you provides for action on two separate lines: (1) to put an end to the immediate threat to peace; (2) to facilitate the final solution of existing causes of dispute between the two countries.

The Council was glad to find during its present sittings that an inquiry into the circumstances which tend to disturb the relations between China and Japan, in itself desirable, would be acceptable to the parties. The Council therefore welcomed the proposal to establish a commission which was brought before it on November 21st. The final paragraph of the resolution provides the appointment and functioning of such a commission.

I shall now make certain comments on the resolution paragraph by paragraph.

Paragraph 1. This paragraph reaffirms the resolution unanimously adopted by the Council on September 30th laying particular stress on the withdrawal of the Japanese troops within the railway zone on the conditions described therein as speedily as possible.

The Council attaches the utmost importance to this provision and is persuaded that the two Governments will set themselves to the complete fulfillment of the engagements which they assumed on September 30th.

Paragraph 2. It is an unfortunate fact that since the last meeting of the Council events have occurred which have seriously aggravated the situation and have given rise to legitimate apprehension. It is indispensable and urgent to abstain from any initiative which may lead to further fighting and from all other action likely to aggravate the situation.

Paragraph 4. Under paragraph 4 the members of the Council other than the parties are requested to continue to furnish the Council with information received from their representatives on the spot.

Such information having proved of high value in the past, the powers who have the responsibility of sending such representatives to various localities have agreed to do all that is possible to continue and improve the present system.

For this purpose these powers will keep in touch with the two parties, so that the latter may, should they so desire, indicate to them the localities to which they would desire the despatch of such representative.

Paragraph 5. Provides for the institution of a commission of inquiry. Subject to its purely advisory character the terms of reference of the commission are wide. In principle no question which it feels called upon to study will be excluded provided that the question relates to any circumstances which, affecting international relations, threaten to disturb peace between China and Japan or the good understanding between them upon which peace depends. Each of the two Governments will have the right to request the commission to consider any question the examination of which it particularly desires. The commission will have full discretion to determine the questions upon which it will report to the Council and will have power to make interim reports when desirable.

It is specially provided that 'should the two parties initiate any negotiations, these would not fall within the scope of the terms of reference of the commission nor would it be within the competence of the commission to interfere with the military arrangements of either party.' This latter provision does not limit in any way its faculty of investigation. It is also clear that the commission will enjoy full liberty of movement in order to obtain the information it may require for its reports."

[Dawes]
SHAW

793.94/3118 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 8, 1931—4 p. m.

[Received 4:30 p. m.⁶²]

858. From Ambassador Dawes. Following is report from Sweetser:

"Sze informed Drafting Committee this morning that he had sent two cables yesterday to Nanking but had not yet had a reply. Cecil then informed him that a public meeting was scheduled for tomorrow afternoon. It was planned to present the resolution as it stands with the possible transfer to the declaration of the last paragraph of paragraph 5. Similarly the President's statement would be made as it stood with the possible addition of this paragraph and also of a new and somewhat narrower text on police action. He told Sze that this text on police action would be submitted [to] him in advance so that he would have time to prepare any comment he might wish to make. He also emphasized that the Committee must get away from the constant redrafting of details to a final settlement of the substance.

Colban urged Sze not to make any declaration which would force the Japanese to withdraw their agreement on the resolution. Sze replied he would do his utmost to avoid controversy but he had instructions and must protect China's interest. Cecil expressed fullest confidence in Sze whose handling of the case so far had been very conciliatory and skillful.

⁶² Telegram in three sections.

After Sze's departure Drummond explained that the Japanese were still undecided whether they preferred to have the clause on police measures in the declaration or to make a statement of their own. Cecil thought the new draft better than the original, for the very important reason that the Council was not obligated by it to express an opinion on the matter but simply stated what the Japanese had declared. Drummond urged that the final text be approved by the Twelve this afternoon and formally adopted by the Council tomorrow in the hope of preventing a catastrophe at Chinchow.

[Paraphrase.] An intimate exchange of views followed as to future action. Madariaga inquired if the Council could not perhaps do something more than merely pass the resolution and adjourn, trusting in good luck. Cecil said the British Ambassador in Japan, after conversing with Baron Shidehara, had dispatched an alarming telegram to the effect that he was unable to escape the conviction of the Japanese having something more serious in mind even than an attack on Chinchow. Drummond also reported the serious impression he had gained from the Japanese delegates and felt the Japanese Government would make a settlement tomorrow if it had the power; unfortunately, however, it did not have this. Colban remarked that in this respect Japan did not appear to be any better than China. Cecil commented that he did not see much choice between them, since there appeared to be no government in China but two governments in Japan.

Again Madariaga inquired whether the Council could adjourn with a clear conscience after merely passing a resolution. Cecil said he was willing to remain until Christmas if he believed this would help, but the decision unfortunately did not seem to be in their hands. Madariaga wondered whether a sort of committee might not be created by the Council with its President and two or three members following the situation and keeping in contact with the two parties. However, the others appeared to feel that this would have little effect upon Japan and in case of an incident might even embarrass the Council. They thought adjournment after the resolution would be better, leaving the appearance of confidence that all would be all right, and then, if such confidence were betrayed, there could be a reconvening under entirely new circumstances. Cecil suggested the usefulness of considering whether a statement might be issued setting out the military position reported by the neutral observers in Manchuria, and this statement might express the opinion that the Japanese were in no danger of an attack from the Chinese and the confidence that the Chinese were in no danger of an attack from the Japanese. After all, the League possessed two weapons only: (a) pressure, which the Governments appeared unready to apply; and (b) world public opinion, which ought to be informed fully. He thought a statement somewhat on the lines of article 15 might be considered by the Council, and it was agreed to attempt drafting something this afternoon with the idea of informing public opinion and not offending the Japanese. Colban inquired as to the United States position at the moment, and Cecil said he hoped the American Government might take some action in regard to Chinchow such as was considered last night by the Twelve, although he did not know if they would or not [End paraphrase]."

[Dawes]
SHAW

S93.00/11656 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, December 8, 1931—6 p. m.

[Received December 8—10:55 a. m.]

119. On December 7, 4 p. m., I had a lengthy conversation with Soong, Minister of Finance, in which he expressed himself along the same lines as reported to the Department by the Legation about October 7⁶³ but with greater despondency. He stated that though [*he thought?*] crisis which had been threatening the National Government had arrived and he evinced the gravest doubt whether the Government could survive the strain. The National and Provincial Governments are destitute financially, a fact which is temporarily excused and explained by the diplomatic troubles of the Government, but which must lead up to outbreaks soon unless the Government's position is speedily improved. Popular support of the Government is changing to widespread contempt because of refusal to declare war on Japan and only some indication of success in the policy of reliance on international adjudication can save the prestige and authority of the National Government from being seriously if not vitally impaired. He maintained the United States, while disclaiming all responsibility for the League, is nevertheless ranking factor in the League's decisions and that if the United States were to indicate willingness to proceed to the length of economic sanctions against Japan the latter would immediately cease from lawless activities in Manchuria without necessity arising for actually imposing such sanctions. In regard to demand for war, Soong said that military concentration in the North would leave the South a prey to chaos and communism and is therefore impossible for this if for no other reason. He pointed out the obvious absence of any group which could establish a government if present Government should pass from the scene and predicted chaos in China for a period of years if that should transpire. He said that the League, in framing its resolution, is paying undue deference to Japan in lack of support from the United States for more positive policy and while he seemed to despair of any complete check to Japan's military activities he urged that the United States take some affirmative action in support of China's cause. This might take the form of an indication of willingness to support economic sanctions or the summoning of an international conference, like the Washington Conference. He was positive the League would not object to the latter course. He said that some open support of the National Government's policy of reliance on international mediation given by the United

⁶³ See telegram No. 723, October 7, 6 p. m., from the Minister in China, p. 134.

States at this juncture might be the means of saving the National Government from possible downfall.

PECK

793.94/3133b : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, December 8, 1931—7 p. m.

636. For Ambassador Dawes: You will please keep in mind my suggestion for you to endeavor to find out what possible action the Council members are contemplating in the event of failure to obtain unanimous agreement on the resolution or if Chinchow is attacked by the Japanese military.

STIMSON

793.94/3119 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, December 8, 1931—10 p. m.

[Received December 8—8:34 p. m.]

860. From Ambassador Dawes: I have just had my interview with Briand. Drummond and Leger also were there. The program agreed upon for the public meeting tomorrow afternoon is that the resolution will be presented and voted upon unless either Japan or China at that time asks for a delay in the vote for another day, because the now expected messages from their Governments have not been received. Whether the voting takes place or not, at the open meeting of the Council tomorrow afternoon the resolution will be introduced and made public to the world, of course. Should either China or Japan request a delay in the vote because of the nonreceipt of an answer from the Government by the time of tomorrow afternoon's meeting, the vote will be put off not longer than one day. However, both China and Japan are expected to receive their final instructions prior to this open meeting.

Following the vote the Council will be adjourned, subject to the call of its President.

To Briand I explained the steps you have taken along the line of his letter to Baron Shidehara and in your talk with Ambassador Debuchi, saying I expected an *aide-mémoire* of your interview. Briand expressed appreciation.

The expectation is that, whether or not a military explosion occurs in Manchuria between now and tomorrow afternoon, the above-mentioned meeting will be held and the foregoing program will be carried out. Answering my query as to whether there were any suggestions he had to make to me for transmittal to you as being possibly helpful in a common situation calling for statements from both the United States and the League of Nations, Briand said he would wait until the end of the discussion in the Council's closed meeting tomorrow morning, for this would, to some extent, influence his own views. If any suggestions of the sort should occur to him after the morning meeting and before the public meeting at 5 p. m., he would inform me accordingly.

At 5:45 p. m., before my call on Briand, Matsudaira again came to see me. I made a strong statement with regard to your certainty that any advance of the Japanese upon Chinchow would have an extremely adverse effect for Japan upon American public sentiment. Matsudaira said he understood this and he was striving in every possible way to prevent an advance of this kind. He explained that Japanese public sentiment was running very high, because it is believed there that the Japanese military advance on Chinchow was halted by the agreement of Wellington Koo to withdraw Chinese troops south of the Great Wall. Matsudaira said he himself understood the facts concerning the alleged Koo offer, but they were not understood by the Japanese public which felt Japan had been tricked into withdrawing her troops. He explained also that his Government had informed him that, in making the neutral-zone offer, it was not the intention to advance Japanese troops beyond the railway zone if the Chinese moved within the Wall. However, this is water over the dam. From my talk with Matsudaira I have the impression that Japan will agree to the resolution. He told me that direct negotiations over the situation at Chinchow are now proceeding at Peiping between Japan and China. [Dawes.]

SHAW

793.94/3120 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 8, 1931—11 p. m.

[Received December 8—10:25 p. m.⁶⁴]

861. From Ambassador Dawes. Following is report from Sweetser:

"Drummond tonight following General Dawes' interview with Briand transmitted the following suggestion[s] as to possible action

⁶⁴Telegram in four sections

which the American Government might helpfully take should it feel so inclined:

1[st.] That it would be very helpful if the Government found it possible to say that it attached particular importance to the proposed commission, that it had noted with sympathy the suggestion that an American citizen be included amongst the members, and that should the Council decide to give effect to this suggestion it would look with favor upon the appointment. Some such statement as this would be useful not only in a general way but also to set at rest certain rumors which only this afternoon were brought forward by a member [of] the Council, Scialoja, that the American Government had changed its views in this regard.

2d. That the American Government felt that the appointment of this commission and the launching of a far-reaching program of study and conciliation ought to contribute greatly to an appeasement of spirit and especially to the removal of the danger of more extensive armed conflict.

3d. That the publication of reports from American military observers either in Paris or Washington as is the practice of certain other governments would contribute greatly to dispelling the many false rumors constantly circulating as to the military situation and to informing world public opinion of the exact situation.

Drummond particularly stressed that these suggestions were put forth only most tentatively and with full realization that for one reason or another they might not be found practicable.

Subsequent also to General Dawes' visit the Japanese delegation asked if the public meeting scheduled for tomorrow afternoon could not be postponed because of their lack of instructions. It was explained to them that while it would be very inconvenient to postpone the meeting entirely and perhaps even unnecessary in view of the fact that their instructions might still arrive, it would be possible to postpone it after the reading of the resolution and the declaration provided they found it necessary at that moment to so request. They agreed to this arrangement.

Previously at a meeting of the Twelve it had been agreed that tomorrow's session would begin the reading of the resolution and the declaration. It was hoped that a vote might be taken straight away before a declaration by either party but it was not thought that it would turn out to be possible to do so. If not, the two parties would make declarations on which the other members of the Council would comment just as little as possible. The only declaration other than those [of] the parties which is now mentioned would be that from Latin America[n] members to the effect that the protection of railway investments and property by military action, which had been mentioned in one of the Japanese communications, should not be accepted as a principle of international relations. Thereafter when the specific affairs of Manchuria had been terminated, the President would make a broad general declaration as to the advisability of necessity for peaceful settlement of international disputes, the avoidance [of] all sorts of force and the guarantee of treaties.

The Twelve also had a final report from Cecil on the last meetings of the Drafting Committee with Ito and Sze. The only comments

made were on the new clause regarding police measures, the joint sentence of which both Fotitch and Mutius thought committed the Council to an indorsement rather than a mere statement of the Japanese viewpoint. A slight change was suggested to meet this difficulty. A further exchange also took place on Madariaga's efforts to prevent nationals of only the five great powers from being members of the commission. While it was recognized that the members must be chosen predominantly for their personal capacities and not for their nationality, it was the consensus of opinion that the only practical way to find the best available men and make the best balanced commission would be to intrust the choice to the President with the assistance of the Secretary-General. The parties would of course be consulted to be sure that no one wholly unacceptable to them was appointed and the member[s] of the Council would be informed of the final choices.

At a previous meeting of the Drafting Committee Cecil stated that Matsudaira had told him that he was authorized to say that Japan did not intend to occupy Chinchow. He conveyed the impression to Cecil that Japanese troops would not go there unless they were drawn in, that is to say, unless a considerable Chinese concentration took place and they were obliged in self-defense to attack."

[Dawes]
SHAW

793.94/3136 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, December 8, 1931—11 p. m.

640. For Ambassador Dawes. Minister Johnson at Nanking on November 24, midnight, telegraphed the Department as follows:

[Here follows quotation of telegram printed on page 558.]

Minister Johnson at Nanking on December 8, 3 p. m., telegraphs as follows:

[Here follows extract of telegram printed on page 641 as far as sentence ending with "unless the Chinese troops are withdrawn."]

I desire you to see Briand and to call to his attention the apparent discrepancy between the Koo project tentatively put forward for consideration and the contention which is apparently being made now by the Japanese that the Chinese promised to withdraw their forces from Chinchow, that in consequence of this the Japanese withdrew their own troops to east of the Liao River, and that if the Chinese fail now to evacuate Chinchow they will be guilty of a breach of faith. I feel Briand should find out the form and terms in which the tentative Koo project was communicated to Japan and if, as I assume, there is no warrant for the present contention of the Japanese that they were

given to understand an outright offer was made by the Chinese, Briand should combat this contention strongly.

STIMSON

793.94/3138: Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, December 9, 1931—5 p. m.

[Received December 9—2:45 p. m.⁶⁵]

864. From Ambassador Dawes: Your 640, December 8, 11 p. m. Drummond explains the situation as follows:

He understands that Dr. Wellington Koo invited the American, British, and French Ministers to see him after the situation in regard to Chinchow became dangerous and told them that he was considering whether or not to suggest the withdrawal from Chinchow of Chinese troops to south of the Great Wall, on condition Japan should give satisfactory guarantees to the American, British, and French Governments, and provided arrangements be made for the continuance of Chinese administration in the areas evacuated. Should the three Governments favor such a scheme, Dr. Koo then would be prepared to make an offer definitely. The French Minister at Nanking telegraphed this Koo proposal to Paris and Tokyo. Paris regarded the proposal with considerable interest and told their Ambassador in Japan—though there still is considerable obscurity on this point—to take up the question with the Japanese Minister for Foreign Affairs. Therefore, the French Ambassador went to see Baron Shidehara and stated that he had under instruction of his Government to bring to his attention the Koo proposal. The British Ambassador, who at first had said he had no instructions in this connection, associated himself with the French *démarche* upon learning of his colleague's action under authority from his home Government. Shidehara was interested very much in the French Ambassador's statement on the Koo proposal and responded that he accepted it in principle but had certain counterproposals to put forward, among which was one that Japan, while unwilling to give guarantees to the three powers named, was prepared to guarantee to the League Council that Japanese troops would not be permitted to penetrate into the neutral zone. Drummond believes it to be quite clear from the foregoing that Shidehara, thinking that Koo had made a definite offer, acted in perfect good faith and utilized this offer, so Drummond understands, with the military extremists for the purpose of pressing them not to proceed farther toward Chinchow.

However, Drummond understands the position has now been explained to the Japanese Government, which appreciates the misunderstanding in the matter, yet the effect of it upon Japanese public opinion remains great and it is of course almost impossible for Shidehara to explain satisfactorily to the military authorities, for they hold him at fault.

⁶⁵ Telegram in three sections.

Indeed, Briand did initiate negotiations to see if the Japanese might possibly give a guarantee to the League Council such as they offered in a form to justify the Council in urging upon the Chinese that they undertake direct negotiations with the Japanese. Not until after Briand and the Japanese had exchanged notes and the suggestion had been made that the neutral zone have a northern limit, which the Council did not feel it could urge upon the Chinese, did Briand decide this morning that to press for further negotiations would not be worth while.

From the above statement by Drummond it is apparent that Briand is in no position, in view of the circumstances, to censure the Japanese Government, but the situation has been explained to them in full. [Dawes.]

SHAW

793.94/3134 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Paraphrase]

PARIS, December 9, 1931—6 p. m.

[Received December 9—1:05 p. m.]

865. From Ambassador Dawes: Your 636, December 8, 7 p. m. The Council expects the Japanese to acquiesce in its resolution and has considered no possible action in the event of a refusal by Japan. In Drummond's opinion, if the Japanese do not agree to the resolution, the first act would be a vote on the resolution and then would follow speeches by individual members of the Council. He anticipates no collective statement by the members in the unexpected event of no agreement by the Japanese to the resolution.

Regarding a possible advance on Chinchow by the Japanese, again the Council has not determined upon what action, if any, it would take. [Dawes.]

SHAW

793.94/3125 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 9, 1931—7 p. m.

[Received December 9—9 a. m.]

1061. Minister Johnson reports from Nanking as follows:

He is informed by the Legation of its receipt of telegrams from the Military Attaché, presently at Chinchow, which express the hope he will soon be recalled as he does not see any advantage in staying

longer. The Minister is directing the Legation to instruct the Military Attaché to stay at Chinchow until he receives further instructions. The Minister feels the situation in the Chinchow region has not cleared up yet and the mere presence there of foreign observers acts as a brake upon Japanese activities. The Minister hopes therefore that the Department will approve his keeping observers for the time being in Chinchow.

For the Minister:
PERKINS

793.94/3139 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 9, 1931—8 p. m.

[Received December 9—4: 40 p. m.⁶⁶]

867. From Ambassador Dawes. Following is report from Sweetser:

"Briand today submitted to the Twelve the following letter from Yoshizawa dated December 8th:

"I did not fail to telegraph to Tokyo the contents of your note of yesterday evening and I reserve the right to reply to it eventually.

As I said to you during our meeting Baron Shidehara thought it possible to forestall an immediate danger through an agreement with the Chinese upon the principle proposed by them. The only way of forestalling this danger seemed [to be?] to have the Chinchow region evacuated by Chinese troops. Apart from the objective in view the question of the exact limit was essentially secondary as moreover I observed to you yesterday. The essential thing was to have the Chinese and ourselves begin conversations. Baron Shidehara had hoped that the Council would understand this and would support his efforts to avoid any collision. This was why he had urgently requested your intervention with the Chinese.

I have just received a telegram from Tokyo which informs me that the Government has no intention, after the limits of the zone has [have?] been fixed, to station troops east of the zone. No force would be sent there except under exceptional circumstances such as the necessity for repressing the activity of bandits. This telegram added that at present we have a small detachment in the Hsinmin region the presence of which is still necessary to preserve order and conditions do not permit their immediate withdrawal.

I wished to inform you of the foregoing thinking that it would perhaps allow you to give some new information to the Council."

Briand also reported a long cable just received from the French Ambassador in Tokyo giving the substance of a talk with Shidehara regarding Chinchow. Shidehara had explained to him the exact location of Japanese troops and their desire not to occupy points nearer Chinchow but simply to repress banditry therefrom. He claimed there were many Chinese regulars nearby who should be brought back to Chinchow and then to Shanhaikwan. The Ambassador said he had insisted with all possible vehemence against any new military movement at the very moment when a special diplomatic settlement was being reached in Paris and expressed the view that any Japanese military advance would bring the whole laborious effort to naught.

⁶⁶ Telegram in five sections.

Shidehara replied that he had never ceased to endeavor to restrain the military but could not guarantee the nonoccupation of Chinchow unless the Chinese troops withdraw. Japanese military leaders felt they had been duped by the Chinese and, in view of the menace to the Japanese position, might quite well feel it necessary to take action which probably would not stop before Chinchow. As regards the Paris negotiations, Shidehara had said that Japan could not admit any discussion of the clause on police measures which would destroy the Japanese position thereon.

A discussion then followed amongst the Twelve as to whether the Japanese reply quoted above justified any future effort at negotiations regarding Chinchow. Cecil said that he did not yet understand what it meant; that it seemed to him extremely vague; and that the only definition of 'east of the zone' would seem to mean the ocean. He did not understand whether the Japanese would permit Chinese administration between Chinchow and the Liao River. If not disorder would of course follow and Japanese troops would have to go in. Drummond thought it might be well to transmit this reply to the Chinese; Cecil thought it would do no good. Mutius thought the reply only a polite acknowledgment without any opening for new negotiations. Briand then expressed the general view that the Council had no choice but to let the matter rest on the basis of this Japanese answer.

A brief exchange then followed on the plans for this afternoon's meeting. Drummond anticipated no difficulty as regards the resolution itself; Briand said he did not see how after all these negotiations it would be possible to raise any difficulty on any point and certainly not one sufficiently serious to justify a rupture. Up to lunch time the Japanese had not received their instructions.

One point as to future action after Council adjourned was also touched upon. Briand said that in order not to be left entirely alone with the whole responsibility for this problem and in order also to avoid even the slightest impression that the Council had abandoned its task he is planning to suggest in his final speech, after the adoption of the resolution that the members of the Drafting Committee who had been of such great help throughout should remain in touch with him. These members are Cecil, who could be replaced if necessary by some one from the British Ministry, Madariaga, newly appointed Spanish Ambassador in Paris, and Colban, Norwegian Minister here.

Briand also made a brief and cautious report on his interview with General Dawes yesterday. He said that the General had come to see him and had renewed his expression of the American Government and its agreement in the general program laid out. He had said the Government was disposed to aid in any possible way and to reinforce insofar as it could the action taken here. Already Briand recalled it had several times done so notably regarding steps for the prevention of further hostilities. Briand thought the American Government might take some similar action as regards the resolution which would of course be important.

Cecil said it would be very worth while if General Dawes could come to the Council and state this publicly. Briand seemed hesitant at this suggestion. Cecil added that, after all, the Council members were not dangerous; if Dawes did not want to come personally, he might write a letter. Briand said he himself had been very cautious on this

particular point; he had not wanted to go beyond where the General could follow. Scialoja wondered if the Council could not give General Dawes the opportunity to make some kind of declaration. Cecil thought this a possible course; that General Dawes could perhaps come to the meeting, make a declaration, and then depart without, however, actually taking a seat at the table. Such a course would obviously greatly undermine [*sic*] the common efforts for a peaceful solution and dramatically demonstrate the unity of all agencies endeavoring to prevent further hostilities. Drummond explained that the American Government seemed anxious to do all it possibly could to help the Council particularly in its representations to the two Governments but obviously did not wish to be asked to appear at the Council table. The matter was left with Briand stating he would make discreet soundings which would not be pressed to the embarrassment of either side.["]

[Dawes]
SHAW

793.94/3140 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 9, 1931—9 p. m.

[Received December 9—3:35 p. m.]

868. From Ambassador Dawes: Briand read text of resolution and declaration at this afternoon's public meeting of the Council.

With the following exceptions the texts as read were the same as those contained in my 857 of December 8, 3 p. m.

1. Last paragraph of paragraph numbered 5 of the resolution has been transferred to the declaration and is now the second paragraph under "paragraph 5" of the declaration. It reads as follows:

"If the undertakings given by the two parties according to the resolution of September 30th have not been carried out by the time of the arrival of the commission the commission should as speedily as possible report to the Council on the situation."

2. The words "which remains seized of the matter" have been added in paragraph numbered 6 of the resolution after the word "Council".

3. No mention was made of the matter of bandits since the question of whether this should be included in Briand's declaration or covered by a unilateral Japanese declaration is still under negotiation.

Immediately after Briand had read the text the Japanese representative stated that he had asked for instructions but had as yet no reply. He asked for a delay until tomorrow. It was agreed to hold a public meeting at 4:30 tomorrow afternoon.

If matters go as planned the Council will of course adjourn tomorrow afternoon. Please advise me whether you desire me to remain here after that time. If not I shall leave for London Friday noon. [Dawes.]

SHAW

793.94/3125 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, December 9, 1931—5 p. m.

454. Your 1061, December 9, 7 p. m. For the Minister:

Your action approved. Military Attaché should remain at Chinchow, as his presence there is essential in connection with action in which Department is engaged.

Department assumes that attachés representing other governments are likewise being continued at Chinchow.

STIMSON

793.94/3125½

*Memorandum of Trans-Atlantic Telephone Conversation*⁶⁷

SECRETARY: Hello, General Dawes. I am sorry to call you this time of night, but I have received your telegrams in regard to the present negotiations and in regard to my inquiry about the mix-up on the neutral zone. Now I understand, I think, exactly how the thing lies now, and I have been going over the papers and have found some additional considerations which have cleared my mind quite a little of certain prejudices I had against the Japanese proposition, and I thought that as the danger still persists of a new movement by the Japanese Army even after the Resolution is passed, I would let you know a little about it so that tomorrow morning in case I should telegraph you would know what it was. I understand now that the chances are that the Resolution will pass tomorrow.

DAWES: They expect that, yes. Although they have not heard yet—

SECRETARY: Not from the Japanese yet?

DAWES: Expect it tomorrow afternoon.

SECRETARY: This is from Japan? China is all right, is she?

DAWES: Yes, China is going to accept. Have you got my telegram where I say it is understood the Chinese intend to make two general statements. First reserve all their rights under the Covenant and other treaties, and second protest the police measures which they felt would not have been necessary except for Japan's own actions.

SECRETARY: I understand. Now, all right, I feel that that is a good step and should go on. The Resolution should be passed if possible and what I am speaking now about is only in reference to the Chinchow trouble. You see?

DAWES: Yes.

⁶⁷ Between Mr. Stimson in Washington and General Dawes in Paris, December 9, 1931, 7:30 p. m.

SECRETARY: Even if that Resolution is passed, there remains the trouble of a misunderstanding about the Chinchow zone and the likelihood that the Japanese Army may again advance. I have some new information on that that I would like to put in your hands simply for such use as you may find for it in case of an emergency tomorrow or in case some chance came for you to go over it with Briand.

DAWES: Yes.

SECRETARY: May I enumerate just gently the nature of it and we can send it so you can get it by cable tomorrow. In the first place I originally had the idea that the Japanese had changed their position and had narrowed down the limits of the zone into a much smaller compass, so that finally it included only the region from the Great Wall to Chinchow, instead of going way out to the Liao River where the Chinese troops have withdrawn. I thought that the Japanese themselves had inched up, so to speak, from the Liao River down to Chinchow. I find on going over the papers that that is not so. The limits of this new smaller zone which the Japanese suggested in their telegram of two days ago were based upon the original offer of Wellington Koo himself. You see?

DAWES: Yes.

SECRETARY: When he made that offer of a neutral zone and that China would retire behind the Great Wall if Japan would keep out of it—the offer which Japan accepted or thinks she accepted—he stated that that zone only ran from the Wall to Chinchow.

DAWES: Well, it ran over to the Liao River just on the other side of Chinchow.

SECRETARY: That is as the Japanese stated it, but Koo stated it so that it would be limited to Chinchow, so that the Japanese only took up what Wellington Koo himself had suggested.

DAWES: I did not understand that.

SECRETARY: Neither did I until I came to look over the papers, and I think it would make a difference with Cecil. I am reading his argument before the Council and he talked as if the Japanese were asking the Council to insist upon this smaller zone at Japan's instance. Instead of that it was merely taking up a suggestion which China herself had made.

DAWES: China. They think if they take their men out of the zone to the Wall that the government will fall.

SECRETARY: I know that is a new political reason that may be a practical reason against it now, but it is not Japan's fault. The next thing is that there is a good reason for that difference for that zone on the west of Chinchow being free from any entry by anybody and the zone to the east of Chinchow towards the Liao River. I have just

heard from Tokyo⁶⁸ of a talk which Forbes has had with Shidehara, and Shidehara says that the reason why they can undertake to keep absolutely out of the territory on the west side of Chinchow, that is between Chinchow and the Wall, is because of the geographical topography. There are mountains on one side and that can be easily protected against bandits and he thinks Chinese police can be trusted——

DAWES: Chinchow? For what reasons?

SECRETARY: Shidehara says that the country between Chinchow and the Great Wall——

DAWES: Chinchow and the Liao River?

SECRETARY: No. The other side, towards the Great Wall, towards Tangshan, towards China. He says that that is of such a nature that it can be easily protected against bandits, even by the Chinese police, and he is willing to have the Japanese withdraw all their subjects from that zone even if bandits should make any trouble, rather than go in and protect them. In case of necessity, he says the Japanese could withdraw their own nationals from that zone anyhow and would be willing to do so. While further on, up towards the Liao River, the country is different and the bandits there are of such a nature that they cannot be handled by the Chinese police and it is only as to that country that he has to be prepared to make protective expeditions.

DAWES: Yes.

SECRETARY: In other words, there is a geographical reason for this.

DAWES: I do not think that Briand understands that.

SECRETARY: I did not know whether he did either, because this has just come to me from Tokyo.

DAWES: Do you think that it would be—don't you think that I had better talk to Sze about that too?

SECRETARY: Oh yes. That is all right to talk to Sze. There is another thing I want you to say to Sze if you talk to him. I think you ought to talk to Sze first before you open up the whole thing anyhow, because the Chinese may not be in a position to renew their offer.

DAWES: So that I had better talk to Sze first because Sze thinks that his government will fall if they take the troops back.

SECRETARY: Of course it may be impossible to reopen this at all.

DAWES: As I understand it, well I do not know whether he feels any different about it now. That was several days ago.

SECRETARY: Then, in the third place, I understand, General, from your telegram that the Japanese were ready to give assurance to the League Council that they would accept this offer and keep their troops out of this neutral zone, although they were not ready to do it to the

⁶⁸ See telegram No. 256, December 9, 9 p. m., from the Ambassador in Japan, *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 57.

three Powers that Wellington Koo suggested in his offer. It seems to me that that prevented the original proposition from being accepted technically. Yet I think that is a very small difference to split on.

DAWES: The misunderstanding that the League had about the zone itself led them to take that position and with the explanation which you make the League would undoubtedly have accepted it.

SECRETARY: The principal thing of all was that it was not Japan inching up, so to speak, and trying to cut down the zone, but it was Koo's original offer.

DAWES: They did not understand that. I will take it up with Sze in the morning. If he is absolutely certain it would not do to open those negotiations on account of the weakness of his government—

SECRETARY: Then there is no use going any further with it. My whole point in bringing this up to you is that I feel if they could make some sort of an agreement on a neutral zone, it would very greatly protect the whole arrangement from being broken up again by a new advance of the Japanese Army.

DAWES: Did the Japanese give any assurance at all that they would not advance? They were afraid here they were going to make an advance right away before tomorrow afternoon.

SECRETARY: I know nothing new except what I knew before. They disclaimed any immediate advance but I think Forbes thinks that eventually unless there is some such agreement as to the neutral zone they will advance and drive them out to the Wall. That would be a great misfortune. That would make the situation very much worse than if the Chinese voluntarily withdrew.

DAWES: Mr. Secretary, Drummond is going away after tomorrow's meeting and the rest of the members of the Council. There is no reason why you want me to stay after the Council goes away?

SECRETARY: I think not. We have had such a good connection on the telephone and you understand the situation so completely that perhaps I will not telegraph. I will just leave it in your hands with this statement. You have it?

DAWES: Yes. I can wire you.

SECRETARY: If you want any confirmation about the terms of that original offer you have only got to get Briand to look up the original offer as it was made by the French Ambassador. The original offer made by Wellington Koo through the French Ambassador in Tokyo. That was in French and the Japanese have given me a copy of it which I have here.

DAWES: They will have a copy I suppose in the French Foreign Office.

SECRETARY: Of course, Briand will have a copy of it, so there is no need of my sending you any wire at all.

DAWES: You have received my despatch about the form of the Resolution. You have read my despatches of today?

SECRETARY: I do not think they have all come in.

DAWES: It was the declaration which was read at this afternoon's public meeting.

SECRETARY: I have not seen that yet. It may be in now.

DAWES: The *New York Times* said the State Department did not want to give it out until they had conferred with me. I suppose the copy was all right. The *Times* wanted to save telegraphic tolls.

SECRETARY: They have not been to me so far as I know.

DAWES: If you get my last despatch you are perfectly safe in giving it out there, because it has been read out in the meeting.

SECRETARY: There was no change in the Resolution beyond what you told me yesterday?

DAWES: I will read it to you.

SECRETARY: I have it before me now. It has been brought in to me now. That is all right.

DAWES: Then you can give it to the press.

SECRETARY: All I want now is a flash as to whether the Resolution has passed or not tomorrow.

DAWES: The meeting is not until half-past four in the afternoon. In the meantime, if we hear from Japan we will let you know before the meeting.

SECRETARY: Perhaps you had better call me up before you leave Paris after the meeting.

DAWES: Yes, I will. Goodbye.

793.94/3141 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 9, 1931—10 p. m.

[Received December 9—8:47 p. m.⁶⁹]

869. From Ambassador Dawes. Following report is from Sweetser:

"Today's public session of the Council went exactly according to plan. Briand read the draft resolution and declaration without any appreciable change except, first, that the question of the relationship of the commission to evacuation was definitely settled by inserting a strong paragraph thereon in the declaration and, second, the reference to police measures was for the moment omitted pending instructions from Tokyo which are expected tonight as to whether Japan would prefer the Council text which is not entirely satisfactory to her, to be inserted in the declaration, or to make a unilateral declaration of her own which would encounter the other disadvantage of drawing forth statements by other Council members. Yoshizawa immediately re-

⁶⁹ Telegram in two sections.

requested adjournment until tomorrow afternoon which Briand said it would be ungracious not to grant. Yoshizawa will then state his views; Briand announced he has certain other comments to make.

The only outstanding question now seems to be that regarding police measures. This is expected to be merely a matter of adjustment which may call forth certain declarations, but which can hardly lead to a rupture. The program as foreseen now for tomorrow calls for a previous agreement between Yoshizawa and Briand as to the procedure regarding police measures clause, which will mean either a further addition by Briand to his statement or a declaration by Yoshizawa. It is hoped to avoid any further comment at this moment and proceed at once to the vote on the resolution and declaration. In this case the two delegations and any other so desiring would then add their explanations. It is understood the Chinese intend to make two general statements: first, reserving all their rights under the Covenant and other treaties; and, second, protesting the police measures, which they feel would not have been necessary except for Japan's own actions. Certain comments by other members of the Council may be foreseen as, for instance, the Latin Americans on protecting railroad property and the Spanish on police measures.

After the resolution and declaration are finally out of the way Briand will make a general statement which it is understood will be fairly strong. The Council will then adjourn, leaving Briand to follow developments with the assistance, if necessary, of the Drafting Committee. Drummond is planning to leave for Geneva tomorrow night."

[Dawes]

SHAW

793.94/3139 : Telegram

The Secretary of State to the Chargé in France (Shaw)

[Paraphrase]

WASHINGTON, December 9, 1931—11 p. m.

643. For Dawes: Your 867, December 9, 8 p. m., has just been received. I desire to give to the public the impression of cordial support to the League Council resolution, if it is passed tomorrow, and am inclined to believe that it would be helpful if, in addition to the statement issued here, you made a brief statement at your end to further a similar impression.

Such a statement might express your appreciation of the long and patient labor of the League Council which has resulted in an agreement of the two parties to refrain in the future from aggression and to support an impartial inquiry into the causes of their controversy. If faithfully observed by both disputants, this agreement may well lead finally to a permanent and peaceful settlement of this difficult question. I should not object to your making in your discretion such a declaration, even in the League Council chamber, after the resolution

has been passed, if you find among the Council members a strong feeling that it would add to the impression of solidarity of the nations in this effort on behalf of peace.

STIMSON

793.94/31542

*Memorandum of Trans-Atlantic Telephone Conversation*⁷⁰

SECRETARY: Hello General. I wanted to give you a suggestion which the President has made. The President has suggested that it might be well for the Council to make a formal offer to Japan before they adjourn.

DAWES: I do not get that.

SECRETARY: I say, the President has suggested that the Council might make a formal offer to Japan. We are afraid that if the matter is left—When is the Council going to adjourn?

DAWES: They are going to adjourn this afternoon.

SECRETARY: I see it is too late to get anything in now.

DAWES: This is what happened. Since the despatch that I sent I have heard the situation in Japan, according to Matsudaira, continues critical and there is a possibility of an advance by the Japanese troops. It seems to me that there was a possibility of delaying this advance and that a statement of the misunderstanding which existed between Japan and China as to the neutral zone negotiations might have a helpful effect upon the public sentiment of both countries and the neutral zone negotiations. I prepared a statement which I submitted to Briand and to Matsudaira and Drummond and which all have approved as something which should be made public as the Chinchow pact. I have agreed to make it before the last meeting of the Council. The statement is based upon the authority contained in your 643 and your attitude in the neutral zone negotiations as conveyed to me by telephone last night. Matsudaira will approve the statement personally but he does not want this fact made public because of the critical condition in his own Government and he does not know what will happen there.

SECRETARY: What doesn't he want made public?

DAWES: Matsudaira will approve the statement but he does not want this fact made public, because of the political situation of his own government and he does not know what will happen there, or what effect his approval will have.

SECRETARY: His approval of what statement? Who is going to make the statement?

⁷⁰ Between Mr. Stimson in Washington and General Dawes in Paris, December 10, 1931, 11:15 a. m.

DAWES: I am going to make the statement with the approval of Briand, Sze, Matsudaira and Drummond. It was also submitted to Yoshizawa. I am dictating the statement but I do not know whether it is best to go before the Council.

SECRETARY: That is entirely in your discretion.

DAWES: Let me read you the statement:

[Here follows text in garbled form. For text of proposed statement, see telegram No. 871, December 10, 5 p. m., from the Chargé in France, printed *infra*.]

Now I just got a telephone call from Briand and they want me to come over there and make a statement before the Council. Sweetser telephoned me that Briand would not make the statement but they approved positively of it and whether they approve or disapprove, they are agreed that the statement be made but of course it is made on our own responsibility. They want me to come over there and I will not go to the meeting but will just go to Briand's office, and after the resolution is passed, I will make the statement.

SECRETARY: On whose authority is your statement made?

DAWES: It is made on my authority. That is an explanation of the misunderstanding. What Briand is a little afraid of is that a mistake was made by the French Government and he doesn't want the responsibility but they all recognize the importance of having a public statement made of the reasons why that negotiation has been stopped. That is what he said in effect because it is critical to the French Government and that is the reason for the responsibility in the matter. That may do good. It has been approved by all of them.

SECRETARY: That is pretty important and you have got to give me time to think that over. What is the authority for the facts which you state? You say that there has been a misunderstanding between the two governments.

DAWES: Matsudaira and Koo [*Sze?*] say that it will help both Governments in public opinion in going on with these negotiations for a neutral zone. This thing is between Matsudaira, Sze and myself to get a statement of it—

SECRETARY: Does the statement involve any criticism on the French for the mistake?

DAWES: It does not. Not at all.

SECRETARY: Read that part again.

DAWES: The misunderstanding arose as follows: [Here follows repetition of text of statement beginning with the words "Dr. Wellington Koo" in the second paragraph (also garbled).]

SECRETARY: Here is my point. The suggestion would be eminently appropriate to come from the President of the Council.

DAWES: What was that?

SECRETARY: It would be eminently appropriate if it came from Briand, the President of the Council, and I see a number of objections to your making it on the part of this country in the League. I am a little afraid of that. I want the suggestion to be made and I do not see how it can do any harm in the negotiations but those negotiations have been carried on by the League and this thing we brought to the attention of the League as a friendly outsider.

DAWES: When it was presented to them—the explanation of this Chinchow expedition and the reasons why it was stopped—there was no objection to it but they wanted it to be made for the effect it would have upon public sentiment in the two countries—Japan and China. It has nothing to do with the resolution and so far as the League is concerned, the Chinchow matter is left alone by them. They felt that the Japanese . . . ⁷¹ of the zone statement made as an explanation of [on?] my responsibility. I can personally make this statement and that will cover it.

SECRETARY: You say now that you will be willing to make it personally on your own authority.

DAWES: On my own authority. The explanation will be made in no other way because the French Government would like the explanation made but they do not want to do it because it would be a concession that an error was made. If I make the statement individually, I can make it after the Council.

SECRETARY: It could go just the same way to the two governments, and give them an opportunity to get their public opinion under control.

DAWES: What?

SECRETARY: If you made it yourself outside. You see General here is the situation. It is a very important and dramatic thing to have this suggestion made and it is really going into the negotiations which have been carried on entirely by the League in a most important and dramatic way and if this Government should do it in the meeting of the League, I think it would give very strong color to the fact that we had intruded into these negotiations in a most emphatic way and I am a little afraid of that. I think really the best way to do it would be the one I suggested, that Briand as President ought to do it, but if he will not do it, I will consider having you do it personally outside.

DAWES: That is right. I will make this as a personal statement.

SECRETARY: Who would you make the statement to?

DAWES: Probably have no statement to make.

SECRETARY: You do not understand me. How would you get it to have any effect upon the Japanese and Chinese Governments?

DAWES: They both want it done.

⁷¹ Apparently a break in the telephone connection.

SECRETARY: You do not understand. How would it be delivered to them?

DAWES: I will tell you what we had better do, if we are not going to the Council or give anything out——

SECRETARY: If they are trying to get us to do anything as important as that, they will have to give me time to think that over.

DAWES: It didn't come from them, it originated from me.

SECRETARY: They want us to do it and it is very important and in my opinion it ought to be done in some way. We want to be careful not to lose the opportunity to have that suggestion of misunderstanding made by somebody. I will have to have time to think it over.

DAWES: I will telephone you tonight about five o'clock and not do anything in the meantime.

SECRETARY: By that time the Council will be adjourned.

DAWES: Yes, it will, but I just got this before you telephoned.

SECRETARY: I do not think the Council ought to adjourn finally until after you have had time to consider this and they have had time to consider this. I don't want them to get away from Paris.

DAWES: Sweetser just telephoned that Sze does not approve the statement now. I couldn't give it now if I wanted to.

SECRETARY: Be careful, don't do it without letting me know. Here is what I tried to say to you in the beginning. In the first place I think you ought to urge on Briand to make some such statement as this on his part. He is the man to do it.

DAWES: Drummond came over here and I suggested that the League make the statement—the Council has twelve fellows over there—and they ran into a long discussion and adjourned without doing anything about it. I suggested that the League make this statement and Matsudaira and Sze agreed and then Drummond took it over to Briand for some other suggestions but now I have Sze's final word that he is not satisfied and they want to close the meeting.

SECRETARY: No it doesn't necessarily. I think they ought to keep up trying to get that statement made in some form. I suggest this——

DAWES: They want to get away. I have tried to get them to agree in meetings but it always ended in long discussions and then I tried my hand this morning and got Sze and Matsudaira to agree and Drummond and Briand, but now Sze just sent word that he doesn't approve.

SECRETARY: You can not do it now, but do not give it up; Sze might change his mind. I want to tell you this, that if you can finally get a statement made to which they all agree, I think that it should be made by Briand. Briand could say that it was something that he had discussed with you.

DAWES: I do not think Briand personally wants to make it.

SECRETARY: He is trying simply to jockey you into doing this. Don't let him do that. He will do it if he can. I think he will come around.

DAWES: The Council is meeting here and is in session now and it would be impossible to do anything with him about it.

SECRETARY: In that respect you will have to let it go. I think it is a great pity if they will not be willing to take one more adjournment in order to try out this very important thing. I think representations ought to be made to them. Here they have spent three or four weeks on only half of it and here is the most important half in sight of success and the only possible half in sight of success, and I think they ought to be willing to stay one more day on the chance of fixing it up and I think you ought to make that representation to them now.

DAWES: Chance of fixing it up?

SECRETARY: Get a message to them in some way. Make it pretty strong that you think they ought to hold the meeting over.

DAWES: I will try to do that.

SECRETARY: Then we will have time to find some way of accomplishing this and possibly get the Chinese back again.

DAWES: Sze objected to the proposed statement.

SECRETARY: I think the statement is all right but I do not see how it can be made except by somebody in the meeting and the man who ought to make it is Briand. He could make it as something that he had discussed with you. He could make it as something which had been brought to his attention by you.

DAWES: I will try that. The position of the League is that they believe that the Chinchow matter should be left alone. Just better let the thing stand, that is what the League has decided.

SECRETARY: There is another thing I was going to say when I called you up and that was would not the atmosphere be cleared on the side of the League if they should make a formal offer to Japan to have observers notify them of any aggressions on the part of China. It is not very clear now—there has been so much discussion—but the President—President Hoover thought that a formal offer to Japan of having military observers report any activities by the Chinese forces in the zone would put it up to Japan if she ever made a move contrary to the information thus obtained. Do you see what I mean?

DAWES: I do not get all that, just say it again.

SECRETARY: At present Japan is threatening to move down into this Zone.

DAWES: I didn't get that.

SECRETARY: At this moment General, General Honjo's army is said to be threatening to make a move toward Chinchow. In order to put them in the wrong if they do that, ought not the League to make a

formal offer to put in their possession the information on the part of the observers.

DAWES: They can not get anything on them.

SECRETARY: Stick to your other point, stick to it, you have a good thought there and I hope something will be brought out of it.

DAWES: I will make the suggestion that Briand can make it if he wants to but I do not think he will do it. They will not take it up. We have done our best any way.

SECRETARY: Goodbye.

793.94/3152: Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 10, 1931—5 p. m.

[Received December 10—2:40 p. m.]

871. From Ambassador Dawes: After our telephone conversation I notified Briand that I would not make the statement which I telephoned to you and which, for your information, is as follows:

"The patient labor of the Council has now resulted in an agreement of China and Japan to refrain from future aggression and for the appointment of a commission. This agreement, if faithfully observed by both parties, may well lead to a final and peaceful solution of this difficult problem.

For the moment, through a misunderstanding alone the discussion of a most promising effort of bringing a cessation of hostilities between China and Japan is in abeyance. The misunderstanding arose as follows: Dr. Wellington Koo discussed tentatively with certain Foreign Ministers at Nanking the cessation of hostilities between the armies and the mutual withdrawal of forces around Chinchow. This suggestion was not intended as a proposal to the Japanese Government but was made merely for the purpose of sounding out on the subject the powers represented by the Ministers. This tentative suggestion of Dr. Koo's, which he did not intend should be made to the Japanese Government, was conveyed to it in such a way that Japan regarded it as a definite proposition. The Japanese Government then made a definite proposition embodying the idea, agreeing to be responsible to the League for its observance of the arrangements if made and this was a chief factor in causing orders to be given for a retreat of its troops which were already advancing. As matters stand at present therefore the Japanese public have the impression that Japan has been misled into troop withdrawal, and China, having made its suggestion only for discussions, is in a position where if she orders her troops to withdraw, the public impression in China is created that China has been coerced. The situation is this: China in good faith made a constructive suggestion for discussion which having been presented to Japan as a proposition instead of a suggestion, Japan then in good faith ordered a troop withdrawal.

An understanding of this situation by the public of both nations should make possible the further exploration of the original idea of Dr. Wellington Koo and the consequent proposition of Japan for a mutually satisfactory arrangement for a cessation of hostilities around Chinchow and a redistribution of the respective forces to avoid the risk of conflict. The continuance of such a discussion involves no humiliating concessions by either of the nations and will only emphasize the earnest desire of both for honorable peace."

[Dawes]
SHAW

793.94/3154 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 10, 1931—5 p. m.
[Received December 10—2:50 p. m.]

1065. During a conversation yesterday with W. H. Donald, British adviser to Marshal Chang Hsueh-liang, Donald expressed the following views which were confirmed later by C. Walter Young, American author of recent works on Manchuria and now cooperating with Donald:

Apparently impending is a Japanese attack on Chinchow. Counselor Yano of the Japanese Legation has informed Marshal Chang that the only alternative is direct negotiations. No specific terms were mentioned by Yano, but he implied that Baron Shidehara would be prepared to negotiate even with the Young Marshal. The latter is not willing to do so without Nanking's authorization, but he favors carrying on informal conversations in Peiping while keeping Nanking informed. Chang appears anxious for a solution with fair terms having due regard for existing treaties and the security of the economic position of Japan in Manchuria. It is Chang's wish to defend the area immediately to the south of Chinchow, particularly Shanhaikwan, since Chinchow cannot itself be defended. T. V. Soong has promised in this connection that some troops soon would be moved from the south toward Tientsin, but the most pressing problem facing Chang at the moment appears to be the attitude of his old generals of the Fengtien clique who desire his resignation to enable them to "sell out" to the Japanese. However, Chang may disappoint them by defending the Chinchow area; this also would reassure the students and public in general, some of whom clamor for military action. In Peiping the student situation for the present is under control because of a program to enlist them in defense corps, with the aid of heads of educational institutions.

Chang's views are shared now by Soong in regard to the necessity of fighting for defense of the last vestige of authority in the area of Chinchow. The negotiations of Nanking with the Japanese Minister Shigemitsu have failed on account of the refusal by the Japanese military to withdraw troops. The Government at Nanking never committed itself to the withdrawal of Chinese forces to Shanhaikwan. The grave financial embarrassment now facing the Chinese Government invites internal upheavals which the Japanese military evidently expect to help them in their desire for imposing severe terms.

Hostility to the inaction of the League is now resulting in a serious domestic crisis, particularly as students from Nanking, Peiping, and Shanghai are beginning to urge the military to fight in self-defense or are demanding the overthrow of the Nanking Government. Hope in the League is disappearing fast, and China, while grateful to you for your statement on the Shidehara promise as to Chinchow, is losing confidence that any outside assistance will obtain the withdrawal of Japanese troops. The authorities in Peiping now see but two alternatives remaining, either to fight or to yield to the Japanese demands.

Repeated to Nanking.

For the Minister :
PERKINS

793.94/3150 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 10, 1931—6 p. m.
[Received December 10—2:45 p. m.⁷²]

872. From Ambassador Dawes: Following is text of unilateral declaration regarding bandits to be made by Japanese representative at this afternoon's public meeting of Council. This of course is in lieu of corresponding provision in Briand's declaration:

"With regard to paragraph 2 of the draft resolution now before the Council I am happy to accept it on behalf of the Japanese Government on the understanding that this paragraph is not intended to preclude the Japanese forces from taking such action as may be rendered necessary to provide directly for the protection of the lives and property of Japanese subjects against the activities of bandits and lawless elements rampant in various parts of Manchuria. Such action is admittedly an exceptional measure called for by the special situation prevailing in Manchuria, and its necessity will naturally be obviated when normal conditions shall have been restored in that region."

[Dawes]
SHAW

⁷² Telegram in two sections.

793.94/3148 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 10, 1931—7 p. m.

[Received December 10—2:30 p. m.]

873. From Ambassador Dawes: After wiring you the tentative text of my statement it occurs to me that it might be a basis of a statement by you later or issued as an individual statement by me tomorrow, as you may decide. I do think that an understanding by the public of the situation in which Japan and China find themselves which apparently has resulted in the ceasing of further negotiations as to a neutral zone constitutes the only chance of avoiding the taking of Chinchow by the Japanese. [Dawes.]

SHAW

793.94/3155 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 10, 1931—11 p. m.

[Received December 10—9:28 p. m.]

874. From Ambassador Dawes: With reference to the Japanese declaration transmitted in my 872, December 10, 6 p. m., Cecil made following reply which had been previously approved by the Twelve this morning as satisfying the juridical situation involved and as removing necessity for any further discussion of subject:

“The Council has heard the declaration of the Chinese and Japanese representatives on paragraph 2. There can be no doubt that the position in Manchuria is difficult and exceptional. It may well be that circumstances may arise there which will cause danger to Japanese lives and property from elements of the population out of control and if an emergency of that kind should arise it might become inevitable that Japanese forces in the neighborhood should take action against bandits and the like. But I welcome the recognition by the Japanese representative of the exceptional character of the situation and that the necessity of such exceptional action will come to an end as soon as normal conditions have been restored. In saying this I do not mean to suggest that the Japanese declaration weakens the obligation set out in paragraph 2 of the resolution to avoid any action which will lead to a recrudescence of fighting between the Chinese and Japanese troops or a further aggravation of the situation.”

[Dawes]

SHAW

793.94/3156: Telegram

*The Chargé in France (Shaw) to the Secretary of State*PARIS, December 10, 1931—10 [11^h] p. m.[Received December 10—9:48 p. m.⁷³]

875. From Ambassador Dawes. In accepting resolution at this afternoon's meeting Sze made following observations and reservations:

"1. China reserves all rights to which it is entitled under the provisions of the Covenant, under existing treaties to which China is a party and under the accepted principles of international law.

2. The present arrangement evidenced by the resolution and the statement made by the President is regarded by China as a practical measure embodying four essential and interdependent elements:

- (a) Immediate cessation of hostilities.
- (b) Liquidation on [of?] the Japanese occupation of Manchuria within the shortest possible time.
- (c) Neutral observation and reporting upon all developments from now on.
- (d) A comprehensive inquiry into the entire Manchurian situation on the spot by a commission appointed by the Council.

The failure of any one of the stipulations of the agreement to materialize would mean the failure of the whole agreement.

3. China expects that the commission will make its first duty to inquire into and report with its recommendations on the withdrawal of the Japanese forces if such withdrawal has not been completed when the commission arrives on the ground.

4. China assumes that the said arrangement neither directly nor by implication affects the question of reparations due to China as a result of events in Manchuria.

5. China considers that the injunction to the parties not to aggravate the situation should not be violated under the pretext of the existence of lawlessness caused by the state of affairs in Manchuria.

The only sure way of restoring peace in Manchuria is to hasten the withdrawal of Japanese troops. China cannot tolerate the occupation of her territory by foreign troops; far less can she permit these troops to usurp the police functions of the Chinese authorities.

6. China will from time to time, as occasion requires, indicate the localities to which it seems desirable to despatch neutral observers.

7. It should be understood that in agreeing to this resolution, China in no way recedes from the position she has always taken with respect to the maintenance of military forces in the railway zone.

8. Chinese Government would regard any attempt by Japan to bring about complications of a political character affecting China's territorial or administrative integrity as an obvious violation of the undertaking to avoid any further aggravation of the situation."

[Dawes]

SHAW

⁷³ Telegram in two sections.

793.94/3404

The Consul General at Nanking (Peck) to the Secretary of State

No. D-160

NANKING, December 10, 1931.

[Received January 4, 1932.]

SIR: I have the honor to refer to my telegram No. 119 of December 8, 1931, reporting a conversation held by me with the Chinese Minister of Finance, Mr. T. V. Soong, on December 7, 1931, and to enclose herewith a Memorandum of that conversation.⁷⁴

There is enclosed, likewise, a Memorandum of a conversation held on December 4, 1931, by Consul Paul W. Meyer with Dr. Loh Chia-luen, Director of the Central Political Institute." Dr. Loh is a Kuomintang Party leader and his observations may be assumed to be based on a wide range of information.

Finally, in order to show that the views of Chinese leaders have been fairly consistent over a period of weeks and agree fairly well with each other, I enclose a Memorandum of a conversation held by me on October 6, 1931, with Vice Minister for Foreign Affairs, Dr. Frank W. Lee.⁷⁴

The outstanding feature of the statements of these three Chinese officials seems to be a feeling that the net result of the connection of the United States with the controversy in regard to Manchuria has been unfavorable to China and favorable to Japan. The impression seems to be that the American Government tempered what might otherwise have been unsparing condemnation by the League of Nations of Japan's military invasion of Manchuria, and that the United States has failed to take, with respect to Japan's military measures, those steps which were to be expected of a sponsor of the Nine-Power Treaty and the Pact against War.

Whenever an opportunity has been presented, I have endeavored to modify this impression, but without great success. The Chinese seem to attribute to the League's weakness the League's failure to curb Japan in Manchuria; the United States, on the other hand, they regard as the most powerful nation in the world, and one quite capable of holding Japan to her international obligations, if this had been desired by the United States.

Respectfully yours,

WILLYS R. PECK

⁷⁴ Not printed.

793.94/3157 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, December 11, 1931—1 a. m.

[Received December 10—9:52 p. m.]

876. From Ambassador Dawes: Resolution unanimously adopted at this afternoon's meeting of the Council.⁷⁷ [Dawes.]

SHAW

793.94/3171 : Telegram

The Chargé in France (Shaw) to the Secretary of State

[Extract]

PARIS, December 11, 1931—10 a. m.

[Received 1:35 p. m.⁷⁸]

879. From Ambassador Dawes. Following report is from Sweetser:

"The Council separated today after 25 days of continuous conferences, including Sundays, during the third session, specially devoted to Manchuria.

Briand is left in charge, in case of eventuality, assisted, if need be, by the members of the Drafting Committee, Madariaga and Colban, who remain in Paris and Cecil or an alternate from the British Embassy. The detail work will remain with the Secretariat whose special staff of 30 people return to Geneva today.

[Dawes]

SHAW

793.94/3166 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 11, 1931—3 p. m.

[Received December 11—10:25 a. m.]

1066. Following from American Consul General at Harbin:

"December 9, 6 p. m.

1. Reports of foreign, Chinese and Japanese correspondents who accompanied Japanese mission, headed by Colonel Itagaki, Honjo's staff officer, which called on General Ma at Hailun at 12 p. m. on December 7th, are substantially as follows:

⁷⁷ For text of the League Council's resolution adopted December 10, see *Foreign Relations, Japan, 1931-1941*, vol. I, p. 59.

⁷⁸ Telegram in two sections.

'There were present at the interview General Ma, General Hsieh (Ma's Chief of Staff), Secretary Chao, four Japanese, including Itagaki and two interpreters. Itagaki produced a calling card of Honjo and said that he had come as the latter's representative to convey the following information:

- (1) Peace should be maintained in Eastern Asia.
- (2) Complete cooperation is desired between the Chinese and Japanese authorities in the northeast.

The Kuantung commander expects General Ma to change his anti-Japanese policy and come to an understanding with the former as to the desires of the Japanese military. If General Ma will stop his military operations, he will be left in charge of the military affairs in Heilungkiang Province so as to maintain peace in eastern Asia. The Japanese military authorities have made up their mind not to allow any anti-Japanese movement in the northeast and have worked out plans for the thorough reconstruction of this country as a whole. It is because of their respect of General Ma's brilliant display of bravery that the Kuantung military authorities have not yet attacked the Kihai and Tsiko Railways.

General Ma replied as follows: The first plan is also much desired by General Ma. He also agrees with the second point raised, but only insofar as China's sovereignty is respected and as united friendship is manifested. The recent movements of the Heilungkiang troops have been taken only in self-defense, and General Ma states that he is subject only to the orders of the Nanking Government. It is his sincere hope that the trouble between China and Japan can be solved properly during the conversation. Itagaki further referred to the possibility that General Ma might be appointed assistant to the Governor of the civil government at Tsitsihar. To this Ma replied that, as Hailun is not very far from Harbin, he could consult with General Chang Ching-hui over the telephone or pay a call on the latter in person, and that a second trip to Hailun by the Japanese representative would not be necessary.'

2. Ohashi informed me that Japanese military stated that results of interview were fairly satisfactory.

3. There is no doubt that General Ma objected to this visit and does not wish it repeated.

4. Correspondents were invited by Ohashi to accompany Itagaki evidently for purposes of publicity and for decreasing danger of possible attack on the party.

5. First Japanese so-called commercial six-passenger airplane arrived with no passengers and no mail at Harbin at 12:15 p. m. and left with six Japanese passengers for Mukden at 12:40 p. m. today on trial flight."

For the Minister:
PERKINS

793.94/3165 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 11, 1931—4 p. m.

[Received December 11—9:20 a. m.]

1067. My 1064, December 10, 11 a. m.⁷⁹ The Consul General at Mukden reports on December 10, 2 p. m., as follows:

⁷⁹ Not printed.

He refers to his second paragraph of his telegram dated December 9, 5 p. m., and says that, while the statement evidently could not have been officially made by the Kwantung headquarters, he is led to believe by conversations with the Japanese Consul that the statement does represent not only the wishes but also the considered plans of some military authorities.

He reports the movement for an independent Manchuria-Mongolia republic to be taking more definite form each day. Interested Chinese, Mongols, and Japanese meet frequently; self-governing bodies are being established in most of the cities, the most recent one in Yingkow on December 7; and the trend is evidenced by the general attitude of the press and officials in Mukden. He expresses the opinion that this movement has gone so far beyond the merely speculative stage that its accomplishment could be prevented only by an expression of foreign opposition or by an early convening of a conference between China and Japan. The movement, however, is not spontaneous, nor are representative Chinese and Japanese promoting it. Without Japanese military backing, it would collapse. Furthermore, the movement is not supported by a united, strong Japanese feeling insisting upon its fulfillment in spite of international disapproval. He is advised that Japanese opinion on the question either is unformed or divided. The foregoing views were results of conversations with informed Mukden Japanese and foreigners.

The above repeated to Nanking.

For the Minister:
PERKINS

793.94/3178b : Telegram

The Secretary of State to the Ambassador in France (Edge)

WASHINGTON, December 11, 1931—4 p. m.

648. With the acceptance by the Japanese and Chinese Governments of the League's Resolution, the President and I wish that you would take the earliest appropriate opportunity to make a personal call on Monsieur Briand and convey to him our gratification on the successful termination of the difficult negotiations concerning the Manchurian question.

Please tell Monsieur Briand that the President and I recognize that much of the success of this accomplishment is due to his personal long and patient guidance and skillful negotiation.

STIMSON

793.94/3168 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 11, 1931—6 p. m.
[Received December 11—12:10 p. m.]

1069. Following from Military Attaché at Chinchow.

"December 10, 6 p. m. Japanese aircraft attempted destruction section of the railway between Panshan and Yingkou December 9th. Observers inspected line today, found that air torpedoes had been dropped, 17 of which exploded. Craters averaged 10 feet wide, 15 deep, the 1 dud which was found on track weighed 150 pounds. It is not understood why Japanese utilized such a powerful means to destroy railway not now open to traffic. P. M. Railroad⁸⁰ traffic not on regular schedule owing to unsettled conditions; trains leave when they can get clearance and because of this observers did not go Hsin-min today as reported."

Repeated to Department and Nanking.

For the Minister:
PERKINS

894.00/330½

Memorandum by the Secretary of State

[WASHINGTON,] December 11, 1931.

I sent for the Japanese Ambassador. When he came I told him that since I had asked him to come I had received a despatch from Ambassador Forbes⁸¹ telling me of the resignation of the Japanese Cabinet, and we discussed that for a few minutes. The Ambassador said he had also received a cable but it merely gave the fact of the resignation and no items. He commented on the fact that it was very fortunate that this change had not come before the final passage of the Resolution at Paris yesterday, and that he thought it very likely that Wakatsuki had withheld his resignation until the Resolution had passed. He said he had no doubt that the affairs in Manchuria were the reason for the resignation. He said that Adachi,⁸² who controlled a good many votes in the Diet of the Minseito Party, had been agitating for a long time for a change in the Cabinet but that the Emperor had a great deal of confidence in Wakatsuki, Shidehara, and Inoue, and Debuchi said he hoped that those men would remain in the Cabinet.

I then told him that it was being asserted against me that I had assured Debuchi that America would not use the boycott, and I asked

⁸⁰ Peiping-Mukden Railway.

⁸¹ Telegram No. 258, December 11, 6 p. m., not printed.

⁸² Japanese Minister for Home Affairs.

him whether he had gained any impressions in our talks which would lead him to believe that I had given such assurance. He at once said no. In order to be doubly sure, I pressed him, and he said that on one or two occasions he had gotten the impression without anything being said that I personally did not favor the boycott, but that I never had said anything at all to give any such assurance. He used the word "official" once or twice and I pressed him on that. He said that there had been certainly nothing which he could understand as "official" assurance. Then he told me he had heard that from one of my press conferences at Woodley the newspaper men came away with a feeling I was not in favor of a boycott and he had heard that the same thing was said at Geneva, but he said he had also seen it denied several times that any such assurance had been given. Finally, I had a press clipping of an account of a speech by Henry Cabot Lodge to that effect, and I dictated a letter of inquiry addressed to Debuchi based upon that, asking him whether anything had ever occurred in our interviews to give him the impression that he had received any such assurance from me. As I saw that he would feel hurt if I sent such a letter to him formally and asked for a reply, I said I would just read that to him and ask him whether on the statement as read he could say yes or no. After I read it he said his answer was certainly no, and he took a pencil and wrote, "No. K. D." on the letter. I gave him a copy of what I had written, and I told him that I felt very badly even to press him like this but that he could realize the matter was serious and that I had been made very angry by the accusations. I told him I had no idea of publishing such a letter but I might go after the man who had made the attack and I wanted to be sure of my ground with him (Debuchi) before I did so. I asked him whether he had ever by any chance said anything that might give anyone else the impression that he thought I had given such assurance, and he said no. But he told me of having a talk with a group of Japanese business men in New York at which time the matter was discussed. I asked him whether he said anything of that sort to Toshi Go, the agent of the South Manchurian Railway Company in New York. He said that Go was a very insignificant person and he hoped I was not paying any attention to what he said.

Debuchi in this entire interview made a very favorable impression upon me for his frankness and honorable attempt to give me fully and frankly the impressions which he had received in our conversations. He evidently had received the impression that I personally did not like to contemplate the use of a boycott, which was the truth, but that I had never said anything that could be taken as an official or even a personal assurance.

H[ENRY] L. S[TIMSON]

793.94/3125 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, December 11, 1931— 6 p. m.

458. [For Perkins.] Your 1061, December 9, 7 p. m. and Department's 454, December 9, 5 p. m. Inform Military Attaché that Department believes his continued presence at Chinchow still necessary. Inform Minister.

STIMSON

793.94/3179 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

TOKYO, December 12, 1931—8 p. m.

[Received December 12—11:40 a. m.]

259. Your telegram No. 262, December 11, 9 p. m.⁸³ In view of the resignation of the Cabinet, I shall await appointment of new Foreign Minister before taking any action unless otherwise instructed. I have just been informed that Inukai, President of the Seiyukai, has been summoned to the Imperial Palace at 8 o'clock tonight. Unquestionably he will be asked to form a new cabinet. As yet there are no reliable indications of its composition.

FORBES

793.94/3179 : Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

[Paraphrase]

WASHINGTON, December 12, 1931—3 p. m.

264. Your 259, December 12, 8 p. m. In my opinion, you should talk over this matter at once with Baron Shidehara unless you feel it is not advisable to take up the matter except with Shidehara's successor.

STIMSON

793.94/3136 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, December 12, 1931—3 p. m.

135. For Minister Johnson:

(1) Your November 24, midnight, and December 8, 3 p. m., from Nanking, regarding the question of alleged Chinese promises to with-

⁸³ *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 62.

draw from Chinchow. I have asked the Embassy in Japan to repeat to you the essential parts of my 262, December 11, 9 p. m., to Tokyo,⁸⁴ relating to this matter.

(2) Based upon cabled reports from Paris, Tokyo, and Nanking, the situation appears to the Department to be substantially as follows:

Besides Shidehara's suggested modification to give to the League Council instead of to the three nations, as Koo suggested, the guarantees regarding nonpenetration of the neutral zone by Japanese troops, Shidehara suggested also a definite northern limit to the zone which Koo had expressed only in general terms as "the Chinchow area". Shidehara suggested the limit be the Hsiaoliang-ho. The Department understands this river to run just north and east of Chinchow, though the city would itself lie inside the neutral zone. It does not appear to the Department that Shidehara's zone limits necessarily involve narrowing the zone much more than the Koo proposal might be understood to do. In his counterproposal Shidehara apparently stated that not for any purpose would Japanese troops penetrate the proposed neutral zone which the Chinese would evacuate. He also stated in a formal note to the League Council that it was not intended to station Japanese troops to the east of the zone, meaning the area between Chinchow and the Liao River; that except under exceptional circumstances, such as the necessity to repress bandit activity, no Japanese force would be sent there; and that it would be necessary to maintain a small detachment at Hsinmin. To the Department it appears, in other words, that the Shidehara proposal did not substantially differ from the Koo proposal except that the former proposed giving "guarantees" to the League Council, while the latter suggested the three nations. To me this exception does not seem to be an objection which a little patient negotiation might not work out.

(3) Since further hostilities in the Chinchow region would affect very seriously the beneficial results to be expected with confidence from the League resolution, further effort should be made, I think, to reach an understanding as to this point. I realize it may not be possible now for Koo to renew his proposal or to agree to the Shidehara proposal, owing to the height to which public opinion has been aroused in China, as in Japan. However, I should like you discreetly to sound out Koo in this connection and to urge upon him, as Ambassador Forbes has been instructed to do with Shidehara, the need for utmost self-restraint regarding any more military activities or demonstrations, suggesting, now that the Council has adopted the resolution, that it should be possible for the Chinese and Japanese authorities to arrive at some agreement to insure against hostilities in relation to or at Chinchow.

STIMSON

⁸⁴ *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 62.

793.94/3180 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

[Paraphrase]

Tokyo, December 13, 1931—5 p. m.

[Received December 13—9:40 a. m.]

262. Your 262, December 11, 9 p. m.,⁸⁵ and 264, December 12, 3 p. m.; and my 260, December 13, 2 p. m.⁸⁶

At 3 p. m. today I called on the Vice Minister for Foreign Affairs, Nagai, and gave him in full the substance of your message. Listening attentively with few comments, he evidently was impressed by your conclusion that in regard to the Chinchow proposition neither side could be charged with lack of faith. Nagai said the Koo proposition had frankly surprised the Japanese Government, which, after accepting it in principle, had done its share by withdrawing Japanese troops, in the expectation that Koo would follow this up. Nagai felt that the Japanese had been treated curtly and perhaps discourteously in not receiving any answer to its suggestion of conferences looking to the arranging of details of the proposal. I made very clear your point concerning the unfortunate effect upon world opinion from further hostilities and inquired whether I should repeat my presentation of this, but Nagai said it was understood perfectly, and when Premier Inukai arrived at the Foreign Office to take charge later in the afternoon, the Vice Minister would not fail to give him the message of the United States Government. Nagai did not say anything which could be construed to indicate an early resumption of hostilities, but he gave the details of sundry abuses which bandits still are constantly perpetrating and which require joint police and military punitive and protective activities.

As to the National City Bank's affairs, I took occasion to ask further, not having had as yet any satisfactory reply. Nagai said he had asked the Japanese Consul General, who was returning to Mukden, to take this up actively. Without revealing the source of my information, I mentioned also numerous arbitrary interferences with civil concerns in Manchuria, ordered by the military to the disadvantage of foreign and Chinese interests and to the direct financial advantage of Japanese interests, and I pointed out that this did not much resemble the Open Door. Nagai was much impressed by this and requested that I supply him with a list of the cases of which I had knowledge.

Afterwards I was received by Baron Shidehara, to whom I delivered the personal part of your message; I think this gratified him.

⁸⁵ *Ibid.*⁸⁶ No. 260 not printed.

He expressed his cordial appreciation of your attitude and mine. A very high imperial decoration has just been granted him.

FORBES

793.94/3208 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, December 15, 1931—9 a. m.

[Received 11:30 a. m.]

315. Drummond asked me to call on him late yesterday afternoon. He discussed the present status of the Sino-Japanese question with particular reference to paragraph 5 of the Council's resolution of December 9th which provides for the appointment of a commission. He covered the following points:

1. The present program is that the commission will be comprised of one national each of Great Britain, France, Germany, Italy, and if the United States Government acquiesces, of a national of the United States. A national of a smaller power might be added, in which case no objection is seen to the increase, if necessary, of the number of commissioners to six. The question appears to be not so much which small power may be selected but rather the obtaining of a competent individual from among the smaller powers regardless of nationality.

2. Drummond, at the direction of the President of the Council, is undertaking the work of arranging for the membership of the commission and other details connected therewith.

3. The British, French, German, and Italian Governments are suggesting a limited number of names from their respective nationals from whom selections may be made.

4. Drummond gained the impression from Ambassador Dawes that the United States would be favorable to one of its nationals serving.

5. Briand and Drummond are giving thought to Walker D. Hines⁸⁷ as the American member as it is felt that his qualifications would make him particularly suitable. In connection with Hines, it is felt that his services would be valuable respecting the railroad problems involved and also from the fact that men with other special qualifications will probably be selected from among the other nationalities.

6. If an invitation to Hines to serve is favorably regarded by the United States Government it would be issued at once. Drummond points out, however, that time would be saved if the United States Government could sound Hines out to determine if he is prepared to serve.

7. Any other suggestion on the part of the United States Government would, of course, be welcome.

⁸⁷ Lawyer, of New York City, director general of railroads January 10, 1919-May 15, 1920.

8. It is planned that the commission proceed to Manchuria about the middle of January and the probable duration of its labors is estimated at 9 months. I understand that the only terms of reference for the commission are those to be inferred from the Council resolution of December 9 and the "President's declaration" of the same date.

I am transmitting the foregoing as statements made to me by Drummond. It is obvious that he expects an answer to the implied questions. I would appreciate instructions.

GILBERT

793.94/3103 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 15, 1931—7 p. m.

[Received December 15—9:45 a. m.]

1081. My 1077, December 13, 4 p. m.⁸⁸

(1) In the general opinion of foreign military observers at Chinchow, Japan will find the means to compel Chinese troops to withdraw inside the Great Wall and the Chinese régime at Chinchow to dissolve. In the opinion of Colonel McIlroy, who left here recently for Tokyo, nothing except very considerable pressure will keep the Japanese military from such action. A Japanese intention to render the Chinese position untenable at Chinchow is indicated by the strengthening of the Japanese garrison in Shanhaikwan.

(2) While it is possible that those on the spot may come to share the more easily the Chinese apprehension with which they are in contact, nevertheless it is incontestable that any existing "legitimate" Chinese authority outside the Wall is a great obstacle to forming at Mukden a new Manchurian régime acceptable to Japan.

(3) Chinchow observers report no offensive movements are being undertaken by Chinese troops, their commanding officer stating he lacks any orders concerning the course to be followed, but if attacked he will resist, and the soldiers themselves are busily occupied trying to keep warm and alive.

For the Minister:

PERKINS

⁸⁸ Not printed.

793.94/3213 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, December 15, 1931—7 p. m.

[Received December 16—5:05 a. m.⁸⁹]

Your 135, December 12, 3 p. m.

(1) The Department's telegram is being repeated to me by the Embassy in Japan, but it is arriving in such garbled form as not to be completely decipherable so far.

(2) While I was absent in Shanghai, on December 13 the Consul General at Nanking mentioned to Dr. Wellington Koo the interest of the Department in the matter of establishing a neutral zone at Chinchow. Koo told Peck of the very strong opposition of the Chinese people to the idea of agreeing to a neutral zone. Koo pointed out that the Chinchow territory was all that remained under Chinese administration in Manchuria and that any advice by the Chinese Government to withdraw Chinese forces from this region was much opposed by popular sentiment.

(3) Chinese students today held a demonstration in front of the Foreign Office here and nearly penetrated into a session of the Central Executive Committee at Kuomintang headquarters. The police forcibly ejected them after they had attacked certain responsible members of the Nanking Government attending this meeting. President Chiang Kai-shek has resigned, and the President of the Legislative Yuan, Lin Sen, has been made Acting President of the National Government. General Chiang has been succeeded as President of the Executive Yuan by General Chen Ming-shu. I expect to hear at any moment of the acceptance of Koo's resignation as Acting Foreign Minister. At the present time sentiment in Nanking is so hostile and inflamed against any suggestion that China and Japan negotiate directly respecting a neutral zone around Chinchow and concerning the whole Manchurian question (until the evacuation of Japanese troops there) that it is my opinion it would be useless for me, if not dangerous, to make any suggestions in this connection to responsible officials lest the fact of my making such a suggestion might become known to the public and serve merely to transfer to my country the hostility which now is taking vengeance upon the government leaders who have been responsible for shaping the policy hitherto regarding Manchuria and who are blamed (perhaps unreasonably) by the public for not having offered resistance in Manchuria to the Japanese. It is argued (not without some justification) by students and public that

⁸⁹ Telegram in two sections.

the policy followed hitherto by the Government has resulted merely in permitting the effective expulsion from Manchuria of all vestige of Chinese control and the establishment instead of an independent regime which would be amenable to Japanese dictation and prepared to ratify Manchuria's control by Japan.

(4) At the present moment the national authorities are so preoccupied with domestic politics that I have difficulty finding anyone to whom I may go, but I shall, at the earliest opportunity, see someone in authority to urge utmost self-restraint in regard to any more military activities or demonstrations and also to express the hope that the Chinese may be able to reach some understanding to prevent further acts of warfare in the Chinchow region, or anywhere else in Manchuria, though I feel it would be unwise or useless to suggest to them that they withdraw from this area, which has become to the Chinese now a symbol of their sovereignty in Manchuria.

(5) All information received by me from American Consulates and observers in Manchuria shows that the Japanese have not wasted any opportunity to make their control effective, while the powers at Geneva and Paris have been concerning themselves with advice and resolutions. The other day I was informed by an American in Shanghai who had sold to the Chinese municipalities of Antung and Mukden equipment for electric power that the Japanese at Antung have cut off completely the Chinese electric power plant, introducing in its stead mains from their own power plant, and that the Japanese at Mukden are extending into the area which hitherto has been monopolized by Chinese municipal public utilities (like water and electricity) water from the Japanese plant and light and power from the big electric plant at Fushun. Reports from the American Trade Commissioner in Mukden show a stoppage of all direct American business with Chinese in Manchuria, while Japanese merchants take advantage of the Japanese-controlled regime which has been set up. In short, the history of the days immediately following the Russo-Japanese war of 1904-05 is being repeated today in Manchuria. When the League commission arrives there, it will find Manchuria completely in Japanese control. Thus do the Chinese see defeated their hopes of freeing Manchuria from Japanese control by means of the League of Nations and the signatories of the Nine-Power Treaty and Kellogg Pact. The present Chinese Government cannot be persuaded to enter into direct negotiations with the Japanese Government to settle outstanding questions between their two countries so long as Japan remains physically and actually in control of both the administration and the area in which these outstanding cases have arisen and is able to use this fact to force acceptance by the Chinese of Japanese terms. It is felt by the present Chinese authorities that to start negotiating

under the circumstances would be in itself to accept the Japanese position and to confirm Japan's right to stay in Manchuria. The Chinese are, in fact, convinced that when the solution provided by the League of Nations has been reached, it will be found that all outstanding cases existing before September 18 will have been settled favorably for Japan and that there will have been created new Japanese interests far beyond any existing previously which may then not be disturbed without China's being held liable to the charge of an attack upon vested rights, whether property or otherwise.

JOHNSON

893.00/11665 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, December 15, 1931—10 p. m.

[Received December 15—4:40 p. m.]

124. My 123, December 15, noon.⁹⁰ The damage inflicted by the students on the Foreign Office buildings was comparatively slight. When they reached the Central Party headquarters a meeting of the Central Executive Committee of the Nationalist Party was in progress and had just taken the following action:

The resignation of Chiang Kai-shek from all his posts had been accepted and Lin Sen, who is President of the Legislative Yuan, had been appointed Acting President of the National Government and General Chen Ming-shu, commander in chief of the National Guard, had been appointed Acting President of the Executive Yuan; the committee refused to accept the resignations of the other Yuan presidents. After the students had forced the main entrance they were opposed by party officials and were met by Tsai Yuan-pei and Chen Ming-shu. The two latter were seized by the students and received severe injuries. The students were armed with staves and iron rods and at least one revolver, from which shots were fired. Some of the students wore communist insignia. There appears to be no general disorder here and there are no present indications of other important resignations or departures from the capital. Chiang Kai-shek has been persuaded by the Central Executive Committee to remain in Nanking and T. V. Soong returned from Shanghai while the arrival of Chang Hsueh-liang is expected. During the last few days the Government has utilized airplanes to scatter hand bills over the student demonstrations. The following is a translation of a typical leaflet:

"Patriotic fellow students. The Government has repeatedly announced that (1) it definitely will not negotiate directly with Japan,

⁹⁰ Not printed.

(2) it definitely will not create a neutral area at Chinchow but will on the contrary oppose that measure, and (3) there is no proposal to create joint control of Tientsin. Do not believe Japanese counter-propaganda”.

Legation at Peiping and Embassy at Tokyo informed.

PECK

793.94/3215 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, December 16, 1931—noon.

[Received December 16—9:15 a. m.]

893. I saw Briand this morning and conveyed to him the message contained in your 648, December 11, 4 p. m. I also left with him copies of the excerpts from President's messages and of your statement.

He asked me to express his great appreciation of your cooperation throughout the whole negotiations. He expressed great satisfaction that the value of the Briand-Kellogg Pact had been vindicated.

In answer to my question he said he did not think there was anything further to be done at present. The Chinchow situation he thought had improved and he is hopeful that the direct negotiations between Japanese and Chinese will be successful.

EDGE

793.94/3219 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 16, 1931—4 p. m.

[Received December 16—10:45 a. m.]

1084. Following from American Consul General at Mukden:

“December 15, 11 p. m. Tsang Shih-yi, Chairman of this Province, who has been under detention since September 18 at Mukden was released Sunday and according to reliable information, he was installed as Governor late this afternoon. In my opinion this event fore-shadows an early attack on Chinchow.

Confirmation to follow.”

Repeated to Minister at Nanking and Military Attaché at Chinchow.

For the Minister:

PERKINS

793.94/3208 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

WASHINGTON, December 17, 1931—6 p. m.

135. Your No. 315, December 15, 9 a. m. This Government has no objection to the appointment of Mr. Walker D. Hines on the League Committee to investigate the situation in Manchuria. The Department has communicated with Mr. Hines confidentially, who says that the matter interests him greatly, but that he has not yet received the formal invitation. He fears other work he now has in hand might make it impossible for him to accept, but should the invitation reach him, he will give it most careful consideration.⁹¹

STIMSON

793.94/3226 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

TOKYO, December 17, 1931—7 p. m.

[Received December 17—8:25 a. m.]

270. Our Assistant Military Attaché has been informed by the General Staff that the Cabinet has approved the movement of additional troops to Manchuria and Tientsin; we estimate at 4,000 and 1,000, respectively. These to relieve the Korean brigade which is to be withdrawn "if situation permits". A like movement of reenforcements was previously announced to have been made for the same purpose (see my telegram No. 216, November 13, 5 p. m.⁹²). Details are being cabled to War Department.

[Paraphrase.] The report is that the military now feel much stronger than prior to the Cabinet change. Assistant Military Attaché Cranford was informed by a representative of the General Staff in substance that he believed it to be best to take Chinchow in order to relieve the bandit situation, as the bandits are supplied by and connected with Chinchow; but he hoped the bandits could be frightened off by the sending of new Japanese troops, thereby averting warfare. Lieutenant Cranford was asked as to the attitude of the United States, and I directed him to say in reply that my Government already had expressed very strongly its hope that no further military movement would be undertaken against Chinese troops, lest such action affect world opinion unfavorably. In the light of my 267, December 16, 9 p. m.,⁹² the Embassy is inclined to believe the view expressed by the

⁹¹ Subsequently the invitation was declined by Mr. Hines.

⁹² Not printed.

Japanese General Staff that this move is a gesture made with the expectation of inducing Chinese troops to withdraw peaceably.

FORBES

894.00/338

The Ambassador in Japan (Forbes) to the Secretary of State

No. 423

TOKYO, December 18, 1931.

[Received January 2, 1932.]

SIR: I have the honor to supplement my despatch No. 383 of November 7, 1931,⁹³ regarding the autonomous power of the Japanese Army.

The autonomous power of the Japanese Army rests principally on the right of the Chief of the General Staff to enter the presence of the Emperor and to obtain his sanction of military policies and war plans without the approval of or interference by any other organ of the Government. As this right—more briefly known as the “right of direct access” (i-a-ku jo-so)—is also possessed by the Chief of the Navy General Staff, comment in this despatch respecting the power of the Army is equally applicable to the Navy. There are also other officers of the Army and the Navy with this right: namely, Army Division Commanders, Commanders of the Chosen, Taiwan, and Kwantung Armies, the Inspector General of Military Education, Commanders-in-Chief of Naval Stations and Fleets, and Commanders of Minor Naval Stations.* As any such officer, however, obtains Imperial sanction only in connection with matters lying within his sphere of duties, the right of direct access gains its principal significance by the fact that the two Chiefs of Staff control strategy and tactics. The senior member of the Supreme Military Council also has the right to enter directly into the presence of the Emperor, but only in an advisory capacity.

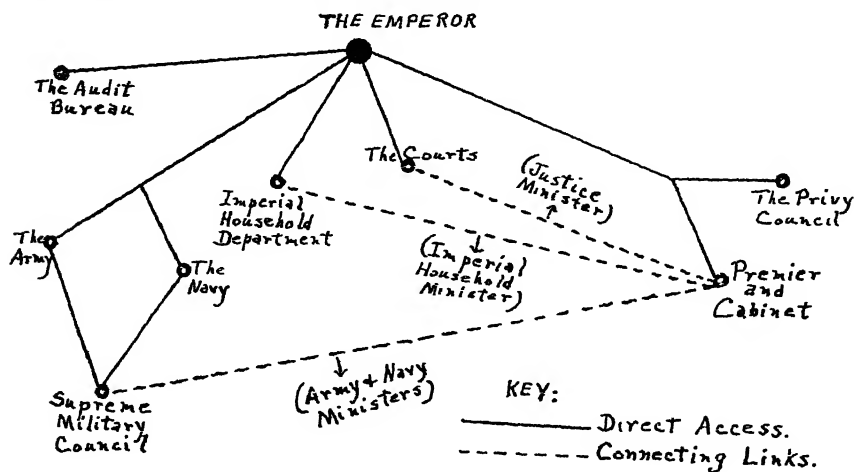
This right of direct access has had, I am convinced, a very vital connection with the Manchurian affair. Had this right not existed, the incident at Mukden of September 18th could scarcely have developed into the present serious situation. In fact, it is quite possible that no incident would have occurred.

Before entering, however, into a discussion of the relation of the right of direct access to the Manchurian incident, a brief description of the division of power that exists in the Japanese Government may help to clarify the discussion. In Japan all power is technically in

⁹³ Not printed.

*Page 256 of the *Kempo Seigi* (The Essential Meaning of the Constitution) by Dr. Tatsukichi Minobe, the leading living commentator on the Japanese Constitution. Published in 1927. [Footnote in the original.]

the hands of the Emperor.† The Emperor is advised by the various Governmental organs that have the right of direct access after which, theoretically, he makes decisions—actually, he sanctions whatever course of policy or action may be presented by the head of the organ “advising” him. The following diagram indicates the various bodies which are directly under the Emperor. Each one has the right of direct access. In some cases an organ may have no relation to any other organ, or it may have a connection that is more or less tenuous.



This chart illustrates the independence of the Army and the Navy of control by other branches of the Government. The connecting link with the Cabinet is the presence on the Supreme Military Council of the Ministers of the Army and of the Navy, who report to the Prime Minister the proceedings of the Council. As the Supreme Military Council‡ does no more than advise the Emperor with respect to such matters as may be presented to it and as it seems in practice seldom to meet, this connection is not especially significant. (In actual practice the Cabinet's one effective check on the military is control of supplies, a check that, if not exercised with the greatest caution, might precipitate a serious crisis.) The presence of the two Ministers on the Supreme War Council is, technically, the Prime Minister's only source of information of what the military is contemplating. As neither Chief of Staff needs, in practice, to submit to the Supreme War Council his plans affecting strategy and tactics

†Dr. Shinyo Uesugi, one of the foremost commentators on the Japanese Constitution, stated in his commentary, published in 1924, that "The Emperor possesses in his palm the power of ruling and controlling all affairs of State and must not be treated on the same level with regard to the privileges of the sovereigns and rulers of other countries." [Footnote in the original.]

‡The members of the Supreme War Council are: the Field Marshal, the Fleet Admiral, the Minister of the Navy, the Minister of the Army, the Chief of the Army General Staff, and Generals and Flag Officers especially appointed Supreme War Councillors by the Throne. [Footnote in the original.]

but may submit them directly to the Emperor for sanction, an important policy or action can be initiated without the knowledge of other branches of the Government.

(In a subsequent despatch I shall discuss in detail the civilian organs of the Government which have the right of direct access and which are wholly or partially independent of one another; namely, the Audit Bureau, which is independent of the other organs; the Imperial Household Department, whose connecting link with the Cabinet is the Minister of the Imperial Household but which has powers beyond the control of the Cabinet; the Courts, whose only connection with the Cabinet is the transmission of decisions to the Emperor through the Minister of Justice, the latter being, however, according to one of the framers of the Constitution, "no more than a messenger boy" in this case; the Cabinet, which presents administrative measures to the Emperor; and the Privy Council, which "advises" the Emperor with respect to certain measures of the Cabinet.)

This independence from other Governmental organs, which either Chief of General Staff enjoys, made possible the military action of September 18th that developed into the virtual control of Manchuria by the Japanese. I have been informed by a sound and very conservative authority that the procedure in this case with respect to Imperial sanction was in general as follows: the Chief of the Army General Staff foresaw that eventually Japanese lives and property in Manchuria would suffer from Chinese aggression; that he therefore obtained Imperial sanction—some time before September 18th—to take whatever measures might be necessary for protection of Japanese lives and property in case of Chinese aggression; that the Commander of the Kwantung Army was informed that this sanction had been obtained; and that "when the Chinese destroyed the South Manchuria Railway tracks near Mukden on September 18th", the Commander of the Kwantung Army thus had Imperial permission to take "whatever action he might deem necessary" for the protection of Japanese lives and property. My informant concluded scornfully—for he is apparently not an admirer of Baron Shidehara—"the Minister for Foreign Affairs knew nothing about it." From this it may be inferred that he meant also that the civilian organs of the Government did not know of the plan of the Japanese military against the Chinese. When they did learn of it, the power to decide what measures against the Chinese were necessary lay with the military.

In addition to the great latitude of action, derived from the right of direct access, this right has also had, I believe, a profound effect on the mentality of the Japanese military, an effect that has been a very important factor in the Manchurian affair. Had the right of

direct appeal not existed, it seems probable that the attitude of the Japanese military toward civilian branches of the Government would have been less arrogant and less impatient of non-military direction. For an accurate description of this attitude, a brief historical survey is necessary.

Following the Restoration of the Emperor in 1868 by the loyal clans, a group of men began the modernization of Japan. The feudal armed forces were succeeded by a modern army. In the organization of this army that group of men first modeled it after the French army and then, following the defeat of France in 1870, after the Prussian. The independence of the military from civilian control was an important factor in each of those military systems.

There were three outstanding reasons why this system of an independent military should have appealed to those Japanese who modernized the army. To gain the loyalty of the country in support of the restoration of the Emperor and to discredit disaffected clans, the group in power emphasized consistently that the ancient prerogatives of the Emperor were being restored to him after having been usurped by the Shogun since the time of Yoritomo (1192 A. D.). The placing of the army (and the navy) directly under the Emperor was described as a return to the Emperor of one of those traditional prerogatives. Secondly, those men who restored the Emperor and who modernized Japan were themselves warriors or members of the loyal warrior clans. It was natural that they would look with disfavor on any system that would subordinate the military to civilian control.* Thirdly, the Napoleonic and Prussian systems were, indeed, the nearest approach to Japanese experience, for from antiquity to the Restoration the control of political power in Japan had been retained only by armed force.

The Office of the General Staff was created in 1878. Dr. Minobe, the leading living commentator on the Japanese Constitution, wrote in 1927 in this regard as follows: "The (Japanese) General Staff Office . . . is a replica of the German (Prussian) General Staff Office. In Germany (Prussia) a clear distinction or demarcation was established between military power and political power, the General Staff Office being vested with an absolute power to control the army quite independently of the Government . . . (In Japan) there exist two different bodies or organs advisory to the Emperor, one for the

*In this connection, the recent statement of one of the men who wrote Japan's Constitution is of interest. He said that at a meeting of those men who were modernizing Japan's army, the question of control came up. Both General Saigo and Prince Yamagata objected violently to civilian control, pointing out that, if the Army and Navy were subordinate to the Cabinet, at some future time a political party might reduce either branch far below the proper strength. [Footnote in the original.]

exercise of his supreme power over general political and administrative affairs (the Cabinet) and the other for the exercise of his supreme power over the Army and the Navy (the General Staff) . . . Those matters belonging to the latter are not included in the sphere of the functions of the Cabinet Ministers . . . Those who are in a position to advise the Emperor on military or naval affairs . . . belong directly to the Emperor and are not under the control of any Minister of State." ^{93a}

In a recent conversation with a member of my staff, one of the framers of Japan's Constitution, a staunch supporter of ultra-conservative ideas, repudiated the suggestion that the Prussian system had been imitated. He maintained stoutly that modernization of the Japanese army had been no more than a return to pre-Yoritomo days. The truth, I believe, includes both arguments.

As a result of the theory that the right of direct access with its corollary that from earliest times the army has been under the direct control of the Emperor—except when that power was illegally usurped,—the Army regards itself as heir to a noble tradition, the historical protectors of the Emperor's person and the Emperor's honor. This belief, together with other principles of the Emperor cult, is instilled into officers and men, I am informed, during their period of military training. It is not unnatural, therefore, that the Army in Manchuria felt humiliated by quiescence before Baron Shidehara's conciliatory policy in Manchuria; believed the honor of the Emperor and of the Army impaired by the attitude of Chang Hsueh-liang and his army—an attitude issuing from the conciliatory policy; and that, finally, when Imperial sanction had been obtained and a pretext found, destroyed Chang's power with vigor, determination, and éclat, brooking no civilian efforts at control.

Herein, it would seem, lies also the explanation of the reported insubordinate action of younger officers in the face of higher authority, whether civilian or military. The alleged plan of a military *coup d'état* and establishment of a dictatorship† is an illustration of this mentality in its most exaggerated form. But there have been indications also that junior officers in Manchuria have gone further than their senior officers had commanded. Such indiscipline has been chiefly due to, it seems to me, the effect on the military mind of the right of direct access to the Emperor and all that it implies.

In conclusion, I should like to discuss briefly the legal source of the right of direct access in modern times, for I cannot help but feel that efforts will be made in the future by civilian organs of the

^{93a} Omissions indicated in the original.

†Despatch No. 382 of November 7, 1931. [Footnote in the original; despatch not printed.]

Government to bring the military under civilian control. The difficulty of success in such an endeavor will be increased by the fact that the right of direct access to the presence of the Emperor seems to rest more firmly in tradition and usage than in the written legal word, and in the written word implication may prove to be more effective than exact expression.

The Minister of Justice, for example, said in a recent conversation that the right of direct access is granted by Article XI of the Constitution. As this Article no more than states that "The Emperor has the supreme command of the Army and Navy", it is not very helpful in the settlement of one of the most perplexing problems of present-day Japan.†

Dr. Minobe, the commentator, does not give the Constitution as the source of this right but Article VII of the regulations of 1889 defining the organization of the Cabinet, which was established in 1885. This Article reads:

"Article VII. Notice shall be given by the Minister of the Army or by the Minister of the Navy, as the case may be, to the Prime Minister of those matters that pertain to military secrets and command which are submitted to the Throne, excepting those cases wherein such matters are specially submitted to the Cabinet by order of the Emperor."

Doctor Minobe states that this article refers to what is known as "direct access". The article appears, however, to be inadequate as a definite, indisputable legal source of this right.

The only other regulations in which the right of direct access is mentioned (or implied)—as far as the Embassy has been able to discover after exhaustive research—are those regulations that govern the Office of the Army General Staff and those that govern the Office of the Navy General Staff. Article II of the former reads as follows:

"The Chief of the (Army) General Staff is appointed by the Emperor from among generals and lieutenant-generals of the Army and is placed under the direct control of the Emperor. He participates in military affairs of the Imperial Headquarters (Iaku) and controls all plans relating to national defence and military tactics, besides supervising the General Staff Office."

Article II of the latter reads:

"The Chief of the Naval General Staff is under the direct control of the Emperor and participates in the important affairs of the Imperial Headquarters (Iaku) and also controls the official business

† Article XII of the Constitution is also usually cited in this connection. It reads: "The Emperor determines the organization and peace standing of the Army and Navy." [Footnote in the original.]

of the General Staff. The Chief of the Naval General Staff is appointed by the Emperor personally."

These regulations were issued in 1908, long after the right of direct access had become firmly established. Whether or not it was dealt with in previous regulations, extended search by the Embassy has not revealed. It is not, however, a vital question, as regulations of an office that delegate to that office so important a right could scarcely be regarded as the legal source of that right.

In short, written legal sources of the right of direct access to the Emperor by either Chief of General Staff is sufficiently indefinite to make the question one of great controversy among Japanese scholars. This very vagueness, it may be, is a source of strength to those who maintain that the military should continue independent of control by civilian branches of the Government. Advocates of the present division of powers would seem to have as their chief sources of strength both tradition and usage. I shall, however, discuss the legal aspect in greater detail in a subsequent despatch dealing with the right of direct access by other organs of the Government.

Respectfully yours,

W. CAMERON FORBES

793.94/3249 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 19, 1931—4 p. m.
[Received December 19—11:13 a. m.]

1105. Following from American Consul General at Mukden:

"December 18, 4 p. m. Reliably informed that Japanese planes bombed Tungliao on the 15th, killing three Chinese. City was in a panic."

Repeated to Department and Nanking.

For the Minister:
PERKINS

793.94/3241 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, December 19, 1931—5 p. m.
[Received December 19—8:55 a. m.]

Doctor Koo has just asked me to confirm to him a Reuter's report dated Washington, December 18, to the effect that the United States had addressed a further note to Japan in regard to Manchuria express-

ing solicitude that Japan's obligations under the Washington Nine-Power Treaty and the Kellogg-Briand Pact should be respected. Can the Department give me information for Koo?

JOHNSON

793.94/3241 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, December 19, 1931—7 p. m.

140. For Minister Johnson: Your December 19, 5 p. m., from Nanking.

No formal communications with regard to Manchuria have been made by this Government since the adoption by the League of Nations Council of the December 10 resolution. However, Ambassador Forbes, on December 13, spoke, under instructions, with the Japanese Vice Minister for Foreign Affairs at Tokyo on the subject of Chinchow. My 135, December 12, 3 p. m., to the Consulate at Nanking and the Tokyo Embassy's telegrams have indicated the nature of the instructions to Forbes.

You may inform Dr. Wellington Koo that the press report which you mention is in error, though the Department previously has affirmed repeatedly its solicitude respecting obligations under the treaties. The Department suggests your saying to Koo, as on your own initiative, that this Government's attitude regarding the whole question in its present stage is expressed in the press statement by the Secretary on December 10. This was telegraphed to Peiping in my 455, December 11, 11 a. m.,²⁴ to be repeated to you. I call your attention especially to its final paragraph. You might read the statement, particularly the last paragraph, to Koo.

STIMSON

793.94/3267 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, December 21, 1931—3 p. m.

[Received December 21—7:42 a. m.]

I have read your press statement of December 10, especially the final paragraph, to Dr. Wellington Koo.

²⁴ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 60.

Today he sends Hsu Mo to me to say that the Chinese Government is extremely concerned over the Chinchow situation in view of statements which emanate every day from Mukden to indicate preparations by the Japanese for an attack on that city. He points out the reenforcement of Japanese troops at Tientsin and the sending of additional troops to Shanhaikwan, thereby enabling the Japanese to cut off any withdrawal by Chinese forces from Chinchow in the event of a Japanese attack. Koo asks whether there is anything my Government can do to forestall a Japanese attack upon Chinchow.

I have informed Hsu Mo that Koo's request would be transmitted to the Department. I observed that I could not believe the Japanese would launch an attack upon Chinchow in view of the League Council's resolution, but he pointed out that in the past the Japanese have sought and found pretexts and now may seek them again. It is stated by Koo that the fear is entertained lest an attack upon Chinchow should disturb very seriously peace and order throughout North China.

JOHNSON

793.94/3280 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 21, 1931—8 p. m.

[Received December 21—1:20 p. m.]

1113. Following from American Consul General at Mukden :

"December 21, 2 p. m.

1. Headquarters reports that the first railway battalion was sent this morning from Ssuningkai to clear out 7,000 bandits in the Changtu, Faku region.

2. An official reception in celebration of the formation of the Provincial Government was held yesterday."

Repeated to Nanking.

For the Minister :

PERKINS

793.94/3272 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 21, 1931—9 p. m.

[Received December 21—11:05 a. m.]

1114. Following from Military Attaché at Chinchow :

"With British and French Military Attachés had interview with General Honjo, his headquarters, Mukden, December 20th. He explained in general the military situation and laid great emphasis on

the increasing seriousness of activities of irregular troops and bandits who he states are supplied and encouraged by the Young Marshal through Chinchow. He states plans are being prepared to clean up bandit situation. He would not indicate when he intended to attack Chinchow but hoped the Government and troops in that vicinity would withdraw inside the Wall, that so long as the Government remains in Chinchow this fact would encourage Chinese elements to defy Japanese authorities and continue to be a menace to peace and safety of Japanese life and property in Manchuria, therefore it is necessary that the Chinchow area be cleared. It was impossible to obtain definite information of Japanese movement but one gets the impression that some decisive action will be taken to clear up the present critical situation. Japanese bridgehead west of Liangyueh River secured by garrison at Chuliuh and Hsinmin, strength 300 strongly intrenched. Area between Hsinmin and Tahushan, no man's land, controlled by irregular troops and bandits. No evidence of unusual activities of Chinese regular troops. There is undoubted increased activity of bandits.

Repeat to War Department."

Repeated to Nanking.

For the Minister:
PERKINS

793.94/3314

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck) of a Conversation With the Chinese Chargé (Yen)*

[WASHINGTON,] December 21, 1931.

Dr. Yen came by appointment made at his request.

He stated that he had a telegram from his Government stating that they were definitely informed that Japan intends, unless the Chinese evacuate, to attack Chinchow. He said they were informing our Minister at Nanking and the League of Nations. They wondered whether there was anything that we could and would do about the matter.

I asked Dr. Yen what he would suggest that we could do. He said that it would seem to him that we might protest. I asked him whether he meant protest in anticipation of or protest after an attack, if intended, had been made. He said that he meant in anticipation of. I said that we were already publicly on record with regard to the matter. He said that the expression of the Secretary of State's views at the time when the Japanese troops were moving toward Chinchow a few weeks ago had resulted in the halting and withdrawal of those troops and he thought that a similar expression might again have the same effect. I pointed out that in the interval the Council of the

League had adopted the Resolution of December 10 and the Secretary of State has expressed his approval of its provisions; and that among those provisions is one in which the disputants undertake to cease hostilities and to refrain from further hostilities.

Dr. Yen said that, notwithstanding that provision, the Chinese Government is convinced that it is Japan's intention to force the remaining Chinese troops south of the Wall—with hostilities, if need be, for that purpose.

I asked Dr. Yen what he thought China was going to do if presented with an ultimatum or an attack. He said that it was a very difficult political problem; and that it looked as though it would be necessary for the Chinese troops to put up a fight. I said that this Government had expressed to both sides its view that the Chinchow problem was one with regard to which it ought to be possible for the disputants to make an agreement without letting the matter come to battle. Dr. Yen replied that it might look that way, but that it was easier to reason with regard to it than to conceive and make good an agreement. He said that it seemed to him that the important thing at this moment was to concentrate on preventing an attack by the Japanese—such attack, he said, would be unwarranted and purely an act of aggression with a political objective.

I said that I would report what Dr. Yen said to me.

S[TANLEY] K. H[ORNBECK]

793.94/3377

*The Military Attaché in Japan (McIlroy) to the Adjutant General,
United States Army (Bridges)*⁹⁵

TOKYO, December 22, 1931.

No. 205. Japanese headquarters Mukden announces drive has begun on bandits west of Liao River adding that anyone who interferes with this campaign will be removed. Japanese General Staff Tokyo states: This force consisting of 2d Division and 39th Brigade, former starting from south of Mukden, latter from north of Mukden; this announcement is not an ultimatum, for if the Chinchow force withdraws or does not resist, it will (Not) be molested.

This office will be surprised if this movement does not end with all Liaoning Province in the possession of the Japanese Army.

McILROY

⁹⁵ Copy of telegram transmitted to the Department by the War Department on December 22, 1931.

793.94/3309

Memorandum by the Secretary of State

[WASHINGTON,] December 22, 1931.

The French Ambassador came to see me to bring me the substance of a telegram which he had received from M. Briand in respect to the situation in Manchuria. The Ambassador said that in the first place the telegram set out the conference of the three military attachés, representing France, Great Britain and America, with General Honjo on December 20th. I told the Ambassador that I had a report from our Military Attaché on the same subject. The French Ambassador then said the telegram recited that M. Briand had sent a message through the French Ambassador in Tokyo to the Japanese Government, and the message to the Ambassador was in substance as follows: I suppose that your British and American colleagues will have information about the conference of the Attachés with General Honjo. The reports are most disquieting and seem to show that the Japanese High Command has made up its mind to get rid of the Young Marshal Chang Hsueh-liang and is going further than the mere consideration of measures of security to protect Japanese nationals. He is evidently determined to make a large military movement against Chinchow, the political aspect of which is very clear since it has been conditioned upon the failure of regular negotiations between the two governments—China and Japan. Under these circumstances it is very important to call the attention of the Japanese Cabinet to the intentions of the Japanese Military Command in Manchuria and to tell them that the operation against Chinchow would very gravely compromise the conciliatory efforts of the Council of the League of Nations. After the passage of the Resolution of December 10 and until the investigating commission has been nominated, it is indispensable that the Japanese Government should measure with the greatest care its responsibilities and its moral obligations in order that it may justify by the wisdom of its decisions the confidence which has been placed in it by the Council.

M. Briand ended the message with directions to the French Ambassador in Tokyo to make these representations without waiting for the representatives of the other powers.⁹⁶

H[ENRY] L. S[TIMSON]

⁹⁶ For instructions to the Ambassador in Japan, see telegram No. 273, December 22, 1931, 9 p. m., *Foreign Relations*, Japan, 1931-1941, vol. 1, p. 65.

793.94/3058‡

*Memorandum of Trans-Atlantic Telephone Conversation*⁹⁷

SECRETARY: Hello, General. The *New York Tribune* yesterday made an assertion about you on which I want a denial, if possible. The *New York Tribune* said that in speaking about the advance on Chinchow, that you had gotten from Alfred Sze and had given to the Japanese, an assurance that the Chinese garrison would withdraw from the Chinchow area.

DAWES: That is an untruth.

SECRETARY: You had nothing to do with it?

DAWES: Nothing whatever.

SECRETARY: In the next place they say that you persuaded Matsudaira to be content with a reading of the reservation of the Japanese——

DAWES: What was that?

SECRETARY: They say that you persuaded Matsudaira to simply take a reservation to the Japanese right of action in this matter in exchange for this assurance of a withdrawal by the Chinese from Chinchow.

DAWES: That is not true.

SECRETARY: You had nothing to do with that.

DAWES: No.

SECRETARY: I am going to do battle on the subject and I just wanted to be sure first that there was nothing in it.

DAWES: Absolutely nothing.

SECRETARY: You see they have gotten the story of what the French Ambassador did in Tokyo and they have you mixed up in it.

DAWES: I knew nothing about it at all. I knew nothing about it until about two or three days afterwards. I had nothing to do with it.

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893.00/11687: Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, December 22, 1931—11 p. m.

[Received December 22—2: 40 p. m.]

131. 1. The Fourth Central Executive Committee held opening ceremonies this morning and a preparatory session this afternoon. I am reliably informed that the only appointment definitely decided is

⁹⁷ Between Mr. Stimson in Washington and General Dawes in London, December 22, 1931, 4: 45 p. m.

that of Sun Fo⁹⁸ to be President of the Executive Yuan. Under the proposed changes in the organic law of the National Government he will be substantially Prime Minister and will nominate the heads of the various ministries. Presumably C. C. Wu will be Minister of Foreign Affairs. The Office of President of the National Government will be divested of actual authority.

2. Earlier report of the departure of General Chiang Kai-shek was erroneous but he and Wellington Koo both left Nanking today and the National Government has practically ceased to function having surrendered its responsibility to the Central Executive Committee. Resignation of Soong, Minister of Finance, has not been accepted but he is in Shanghai apparently indifferent to the course of events. Nevertheless, just before the resignation of Chiang Kai-shek on December 15th three of the latter's military adherents were appointed to head the Provincial Governments of Kiangsu, Chekiang and Kiangsi and it seems certain that Chiang and Soong can take effective military control of the Nanking-Shanghai area whenever they desire to exercise it.

3. The National Government is considered unable to deal with a crisis like the impending Japanese attack on Chinchow. The conviction seems universal, however, that neither Chang Hsueh-liang nor any Central Government could survive the popular opposition which would be aroused by a proposal to surrender that area without fighting.

Legation informed.

PECK

793.94/3290 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

Tokyo, December 23, 1931—2 p. m.

[Received December 23—3:30 a. m.]

275. The French Ambassador advises me that he has just delivered a note to the Japanese Government again deprecating any advance in force towards Chinchow, as implied in a statement made by Honjo, commanding Japanese forces in Manchuria, to visiting Military Attachés 3 days before, announcing Japanese intention of insisting upon the retirement of the Chinese Army behind the Great Wall. He was instructed to get in touch with the British Ambassador who has just received instructions to make similar representations, and with me. I have already given him the purport of your instructions to me contained in your telegram No. 262, December 12 [11], 9 p. m.,⁹⁹ and my resulting representations to the Japanese Government.

FORBES

⁹⁸ Son of the late Dr. Sun Yat-sen, leader of the Kuomintang and the Nationalist movement in China.

⁹⁹ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 62.

793.94/3339b : Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

WASHINGTON, December 23, 1931—5 p. m.

275. The *New York Herald-Tribune* of December 21 carried an editorial under the caption "The Chinchow Ultimatum".

This editorial stated, in part, that

"Secretary of State Stimson's reminder to the Japanese Foreign Office through Ambassador Cameron Forbes that a Japanese advance on Chinchow would have an unfavorable effect upon world opinion . . . has to be construed with the fact in mind that Japan signed the League Resolution because Ambassador Dawes got from Dr. Alfred Sze and passed along to the Japanese an assurance that the Chinese garrison would withdraw from the Chinchow area, . . ."¹

The editorial stated further:

"It was Mr. Dawes who persuaded Mr. Matsudaira to be content with reading a reservation of the Japanese right to action into the minutes in exchange for an assurance from Nanking, conveyed by Dr. Sze through Mr. Dawes, that the Chinese would withdraw."

"The accredited agent of the State Department was, in other words, a responsible party to this arrangement . . .¹ For this reason, if for no other, the Stimson message cannot be interpreted as foreshadowing an American protest, but as informal friendly advice having no bearing on policy."

Insofar as these statements purport to be statements of fact, they are false. As you know, no such assurances were given to Dawes or conveyed by him and no such arrangement was made.

I assume that you clearly understand both my attitude and policy with regard to the Chinchow matter and that you have made them clear to the Japanese authorities. If the above quoted statements or similar statements are in any connection cited to you, you should declare them false.

Repeat to Peiping for relay to Nanking.

STIMSON

¹ Omissions indicated in the original telegram.

793.94/3307: Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 23, 1931—7 p. m.

[Received December 23—6:44 a. m.]

1125. The Consul at Dairen reports on December 22, 4 p. m., as follows:

Japanese military authorities there are commandeering auto trucks on an extensive scale and shipping them northward.

The Consul General at Mukden reports on December 22, 10 p. m., as follows:

That afternoon trucks loaded with boxes marked "shrapnel" were observed en route to the railway. Taken in conjunction with the Dairen report mentioned above, this would indicate that the anticipated drive by Japanese troops westward is imminent.

JOHNSON

793.94/3339

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck)*

[WASHINGTON,] December 23, 1931.

The new Chinese Minister, Dr. W. W. Yen, called to present his credentials.³

The Secretary of State greeted Dr. Yen with expression of his pleasure in renewing acquaintance begun in China. Dr. Yen expressed himself reciprocally.

Dr. Yen said that when he was appointed Minister to the United States it had been expected that he would arrive some time next spring. In view, however, of the critical situation which had arisen in Manchuria, his Government had desired that he come on at the earliest possible moment. So now he was here. He then spoke at some length with regard to events in Manchuria and referred to indications of Japanese policy, treaty obligations and the well-known traditional policy of the United States.

The Secretary of State said that the problems presented were very difficult, that we had been working very hard upon them, and that we had them very much upon our minds.

Dr. Yen said that he wished to be helpful in any possible relationship. He said that he had telegrams from Nanking expressing great

³ Dr. W. W. Yen was accompanied by Dr. Hawking Yen, Chinese Counselor of Legation.

apprehension with regard to the situation at Chinchow against which the Japanese were apparently preparing an attack. He said that our Minister to China had been informed.

The Secretary said that he was glad that Dr. Yen was here.

S[TANLEY] K. H[ORNBECK]

793.94/3317: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 24, 1931—noon.

[Received December 24—4:45 a. m.]

1126. Following from American Consul General at Mukden:

"December 23, 4 p. m. Spokesman for Japanese headquarters unofficially announced that Faku was captured yesterday afternoon. He intimated that a simultaneous westward drive against the bandits is taking place on a wide range extending from Changtu on the north to Yingkow on the south and that [apparent omission] Yingkow are moving northward along the Liao; Changtu, Kaiyuan, Tiehling, Mukden, Liaoyang and possibly Haicheng are the main points from which drive was launched. From Mukden and points north the drive started on the 21st and from points south today or yesterday. General Tamon is in charge. Local press today state[s] that antibandit campaign was started from Mukden and points on the 21st and that troops from Mukden moved west to Liao River by motor trucks.

This is apparently the largest operation yet undertaken."

JOHNSON

793.94/3369

Press Release Issued by the Department of State on December 24, 1931

The American Ambassador in Tokyo was instructed on December 22⁴ to express to the Japanese Foreign Office the concern which this Government entertains, in view of recent reports apparently well-founded, to the effect that the Japanese army in Manchuria is contemplating movements in the direction of Chinchow which might lead to a renewal of armed hostilities with the regular Chinese military forces in and south of that city. He has been asked to call to the attention of the Japanese Government that the reports from the military observers of several nations in the Chinchow area, including the American military attaché, are to the effect that they find no evidence that the Chinese military forces have engaged in or are preparing for any offensive military movement.

⁴ See telegram No. 273, December 22, 9 p. m., *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 65.

793.94/3318 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 23 [24th], 1931—7 p. m.

[Received December 24—7:24 a. m.]

1127. Your 469, December 23, 5 p. m.⁵ I have just been informed by telephone from Tientsin that the commander of the U. S. Fifteenth Infantry there has been informed by the Japanese military of their intention to land at Tientsin 1,700 troops, including a company of artillery, on December 26-27 for precautionary purposes. We have no evidence at present of any disturbance there to cause this Japanese action. Tientsin and the whole region between it and Chinchow are peaceful. I can therefore conceive of no reason for the Japanese action except an intended attack toward Chinchow and possible disorders caused thereby at Tientsin.

JOHNSON

793.94/3323 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 26, 1931—noon.

[Received December 26—1:30 a. m.]

1129. Following from American Consul General at Harbin:

"December 23, 5 p. m.

1. Last evening Secretary Chao, who had just returned from visiting General Ma at Hailun, informed me that Ma had sufficient funds to support his troops for 3 months; that he was still acting under instructions of Nanking and that he would await the results of the visit of the League of Nations commission.

2. No evidence to the effect that Ma has yielded to Japanese demands has been brought to the attention of this office, but judging by Chao's remarks he is anxious in regard to expected operations of Japanese at Chinchow.[⁷]

JOHNSON

793.94/3324 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 26, 1931—1 p. m.

[Received December 26—5 a. m.]

1130. 1. Following from American Consul General at Mukden:

"December 24, noon. Japanese headquarters reports mixed brigade operating in Faku area withdrawn to Tiehling today. Antibandit operations in this region are considered successfully terminated."

⁵ Not printed.

"December 25, 1 p. m. Headquarters report fighting between 2 companies Japanese and 1,000 Chinese near Tienchwangtai, northwest of Yingkow, on 23rd. Japanese casualties 6, Chinese many, including some in Regular Army uniforms under plain clothes.

On 24th Japanese military train near Tienchwangtai exchanged shots with Chinese military train which withdrew; no casualties reported."

2. Following from Military Attaché at Chinchow:

"December 25, noon. Reported Tienchwangtai Railroad station occupied by Japanese 6 p. m. yesterday. Chinese report their armored train there withdrawn westward 3 miles after considerable fighting and damage received from air bombs: Japanese air activities yesterday at Tienchwangtai, Panshan, Shihshanchan, Tangchiawapu; General Jung Chen is in Peiping to attend military conference."

JOHNSON

793.94/3320 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

Tokyo, December 26, 1931—4 p. m.
[Received December 26—6:22 a. m.]

280. An account of my interview with Inukai^e evidently given out from his office and substantially correct in Japanese papers 5 o'clock same afternoon. The British and French Ambassadors seem to have dealt with Nagai.

The Dutch Minister informs me there is a bitter feeling existing against us in the Japanese Army due to the conviction that their only hope of getting the Chinese Regulars to withdraw from Chinchow behind the Great Wall without fighting rests upon these conditions making them believe that they will have to get out any way. They claim that our announcement of an assurance that they would not take Chinchow has stiffened the Chinese attitude and makes it more difficult to carry on negotiations for the peaceable withdrawal which they regard as essential for the restoration of order and civil administration in Manchuria. The *Nichi Nichi* and *Jiji* editorially comment that the publication of recent Three-Power cautions against hostilities at Chinchow is likely further to stiffen Chinese opposition and make hostilities more probable.

[Paraphrase.] It is my conviction that the Japanese would far rather have these problems settled without clashing with Chinese Regulars. However, there is no doubt that the bandits are too scattered, too numerous, and too far out of control to be dealt with except by troops more or less in force. [End paraphrase.]

^e See telegram No. 278, December 24, 5 p. m., from the Ambassador in Japan, *Foreign Relations, Japan, 1931-1941*, vol. 1, p. 67.

The French Ambassador has delivered to me a copy of his recent note. Please instruct whether I shall reciprocate by giving him a copy of yours contained in Department's telegram No. 273, December 22, 9 p. m.⁷

Repeated to Peiping.

FORBES

793.94/3320 : Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

WASHINGTON, December 26, 1931—5 p. m.

278. Your 280, December 26, 4 p. m., last paragraph. On December 23 the Department telegraphed to the American Consul at Geneva⁸ the text of the opening and the concluding paragraphs of the statement telegraphed to you in Department's 273, December 22, 9 p. m.⁷ and requested that the Consul inform the Secretary General of the League thereof in confidence.

If you deem it advisable, you may give French Ambassador in strict confidence a copy of whole statement.

STIMSON

793.94/3340 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 29, 1931—3 p. m.

[Received December 29—6:17 a. m.]

1146. The Military Attaché at Chinchow telegraphs that the railway company has been ordered by the Chinese military authorities to assemble 6 locomotives and 150 cars at Chinchow, and it is his opinion that the Chinese troops are on the point of withdrawing within the Great Wall.⁹

Repeated to Tokyo.

JOHNSON

⁷ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 65.

⁸ Telegram not printed.

⁹ For decision to withdraw, see telegram No. 1148, December 29, 1931, 10 a. m., from the Minister in China, *Foreign Relations, Japan, 1931-1941*, vol. I, p. 75.

793.94/3445

The Chinese Chargé (Yen) to the Chief of the Division of Far Eastern Affairs (Hornbeck)

WASHINGTON, December 29, 1931.

MY DEAR DR. HORNBECK : Dr. W. W. Yen wishes to enclose to you for the information of the State Department three copies of a cable which has just been received.

Yours sincerely,

HAWKLING YEN

[Enclosure—Telegram—Translation]

The Chinese Ministry of Foreign Affairs to the Chinese Legation

NANKING, December 29, 1931.

The Peiping-Liaoning (Peking-Mukden) Railway Administration reported that the Japanese garrison commander of the Tientsin area had requested by letter that the railway administration prepare three military trains for transporting from Tangku to Tientsin of about 70 Japanese officers, 1900 soldiers, 160 horses and 4 cannon. The Special Diplomatic Commission (Nanking) is of the opinion that Article 9 of the Protocol of 1901¹⁰ provides only for the maintenance of open communication between Peiping and the sea; at present there is no danger of such communication being obstructed; besides, according to Article 1 of the Railway Regulations, there are certain restrictions concerning the transportation of foreign troops by rail between Shan-haikwan and Peiping; we are, therefore, under no obligation to comply with the Japanese request. Accordingly this Ministry telegraphed to the said railway administration to categorically refuse to transport such men and war materials over the line. It has now been reported that the Japanese military authorities have compelled the railway administration to carry out such transportation to Tientsin. This matter has an intimate connection with the Chinchow question and affects most seriously the peace and order of North China. The Japanese are intentionally violating the Council Resolution of the League. The responsibility must, therefore, lie on Japan for whatever consequences such an act will entail.

¹⁰ *Ibid.*, 1901, Appendix (Affairs in China), p. 312.

793.94/3357 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 30, 1931—4 p. m.

[Received December 30—8:45 a. m.]

1153. (1) The information today indicates that Marshal Chang Hsueh-liang is withdrawing from Chinchow the bulk of his troops but leaving a small guard and the civil administration of Liaoning Province.

(2) In the informal negotiations held here between Yano, the Japanese Legation Counselor, and Marshal Chang, the former has contended that Chinchow would eventually be taken by the Japanese military and that the Tokyo Foreign Office would gain prestige and be better able to shape events to the advantage of China if the Chinese avoid a clash by withdrawing voluntarily. It has been suggested also that some of Chang's followers might regain official posts at Mukden. Chang is believed to have been led to his present decision by these inducements, along with the bitter hostility toward him at Nanking and the lack of support from that quarter.

Foregoing repeated to Tokyo.

JOHNSON

793.94/3356 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 30, 1931—5 p. m.

[Received December 30—7:40 a. m.]

1154. Following from American Consul General at Mukden:

"December 30, 11 a. m. Reliable information has been received that Panshan was captured by Japanese yesterday afternoon and that Japanese forces are continuing their move towards Kowpangtze.

Nine additional Japanese troop trains left Mukden over the Peiping-Mukden Railway since midnight. The nine trains which left Mukden yesterday were discharged at Hsinmin and returned to Mukden.

The object of this operation seems to be at least the suppression of bandits in the triangle formed by the Liao River and the Peiping-Mukden Railway. No official information released."

Repeated to Tokyo.

JOHNSON

793.94/3354 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, December 30, 1931—6 p. m.

[Received December 30—8:45 a. m.]

1156. The Military Attaché at Chinchow has just telephoned that the Chinese troops are now withdrawing from that area to south of the Wall, the movement to be complete within this week. Margetts has been authorized by me to return at his discretion.

JOHNSON

893.00/11698 : Telegram

The Consul General at Canton (Ballantine) to the Secretary of State

CANTON, December 31, 1931—11 a. m.

[Received December 31—2:30 a. m.]

I have just been informed authoritatively that the necessary order for the dissolution of the National Government at Canton on January 1st is being issued today.

Repeated to Nanking, Legation at Peiping.

BALLANTINE

793.94/3367 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 31, 1931—2 p. m.

[Received December 31—5 a. m.]

1162. Following from Military Attaché at Chinchow:

"December 30, 10 p. m. General Jung Chen returning with final instructions for withdrawal all Regular troops inside Wall, states that 1 week would be required to complete movement. He added Provisional Government would remain at Chinchow but that it was not settled whether Japanese would control east of Liao or east of Taling Rivers. This question to be settled by diplomatic negotiation."

JOHNSON

793.94/3372

The Appointed Chinese Minister (W. W. Yen) to the Secretary of State

The Chinese Minister presents his compliments to the Secretary of State and has the honor to enclose herewith a copy of a telegram which has just been received, for his information and consideration.

WASHINGTON, December 31, 1931.

[Enclosure]

*The Chinese Legation to the Department of State*AIDE-MÉMOIRE ¹²

In spite of the provisions contained in paragraph II of the resolution unanimously adopted by the Council of the League on December 10, 1931, with reference to Manchurian affairs requiring that the two parties undertake to adopt all measures necessary to avoid any further aggravation of the situation and refrain from any initiative which may lead to further fighting and loss of life, the Japanese Army on the pretext of suppressing bandits has now advanced westward of the Liao River and on December 24th occupied Tienchuangtai. Again on December 28th and 29th they seized successively the Tawa Station and Walled City of Panshan. The Japanese troops have repeatedly attacked and pressed upon the Chinese Army with an evident intention of capturing Chinchow.

Such actions on the part of Japan have not only encroached upon China's territorial sovereignty, thus violating the principles of international law, the League Covenant, the Nine Power Treaty and the Kellogg Pact, but have utterly scorned the recent resolution of the League Council.

The declaration of the Japanese Foreign Office on December 27th ¹³ explaining that the movement of Japanese troops toward west of the Liao River was for protecting themselves against local bandits encouraged by the Chinese Army at Chinchow is entirely contrary to fact.

The Chinese Government has received a report to the effect that Japan again despatched on December 27th a mixed brigade from Korea to Manchuria. The enlargement of the Japanese forces in Manchuria and similar actions have aggravated the situation and would lead to further fighting and loss of life. Japan should be held responsible for whatever consequences that may unfortunately happen as a result of China's necessary measures for self-defense.

Aside from a protest duly lodged with the Japanese Government the Chinese Government wishes to call the attention of the United States Government to the above-mentioned facts and hopes that the United States Government will immediately take effective measures to prevent the aggravation of the present serious situation.

WASHINGTON, December 31, 1931.

¹² Copy of telegram from the Chinese Ministry of Foreign Affairs to the Chinese Legation; a similar document was transmitted by the Chinese delegation at Paris to the President of the League Council.

¹³ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 72.

793.94/3374 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, January 1, 1932—11 a. m.

[Received January 1—4:15 a. m.]

2. Following from Military Attaché at Chinchow:

"December 31, noon. Chinchow Railway station resembles beehive, every possible car being pressed into service and loaded with troops, animals, baggage, to last inch space. Engines in every state of repair utilized mostly in pairs due to the power of locomotives being insufficient. Withdrawal in full swing attended by much confusion. Difficult to say when will be accomplished. Reported occupation Kowpangtze [by] Japanese December 30, 6 p. m., confirmed by troops who withdrew from there December 30, 11 p. m."

JOHNSON

893.00/11699 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, January 2, 1932—10 a. m.

[Received January 2—2:30 a. m.]

4. Following from American Consul General at Nanking:

"December 31, 4 p. m. 1. Sun Fo and other Southern leaders who went to Shanghai, December 25, returned December 27 and the session of the Central Executive Committee has been harmonious until it closed on December 29. In a manifesto the committee announced that it would shortly convoke a national emergency conference and a peaceful national debt salvation conference to formulate plans for overcoming the present national emergency. The organic law of the National Government was revised with the professed object of lessening strict party control and the President of the Executive Yuan has been given somewhat the status of Prime Minister responsible to the Central Executive Committee of the party.

2. The committee filled by election all the important party and Government posts giving a great preponderance to men from Southern provinces. Great stress has been laid on the necessity for national unity and all factions are represented in the party and Government organs. Feng Yu-hsiang¹⁴ arrived in time for the closing ceremonies but the prospects for a successful coalition government are diminished by the absence from the capital of outstanding leaders such as Chiang Kai-shek, T. V. Soong, Wang Ching-wei, Hu Han-min and Chang Hsueh-liang. I have observed considerable doubt whether the members of the Government as now constituted will be able to work together harmoniously and efficiently.

3. The election of Eugene Chen as Minister of Foreign Affairs seems to occasion misgivings among Foreign Office officials. A Shanghai

¹⁴ Former commander of the Kuominchun (People's Army) of North China.

banker, Huang Han-liang, is made Acting Minister of Finance with the asserted support of the Shanghai Chinese banking community. T. V. Soong and Wellington Koo intend to go to France almost immediately and Chiang Kai-shek shows no present intention of taking up his post in the party headquarters.

4. A prominent party official told me confidentially last night that the National Government and the Nationalist Party have signally lost in prestige of late through lack of success in coping with diplomatic and financial difficulties and with communism and flood conditions. He observed that the conquest of Manchuria by Japan [is?] the most effective factor in destroying popular confidence in the Government and Party working. He pointed out that the Nationalist Party is the only organized force working for the welfare of the nation and that its destruction would leave the country to communism and anarchy. He insisted that the Chinese Communist Party is well organized and that it is in close touch with the Third International.

5. The newly elected party and Government officials will assume office January 1st."

JOHNSON

793.94/3428 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, January 6, 1932—11 a. m.

[Received 2:55 p. m.]

2. Department's 3, January 5, 6 p. m.¹⁵ The following is the text of the Chinese note referred to, addressed by the Chinese delegation at Paris to the President of the Council under date of December 26th, not 25th:

"Under the instructions of my Government, I have the honor to transmit to Your Excellency the following telegraphic message dated December 25th from the Acting President of the Executive Yuan:

"With a view to avoiding the aggravation of the situation in Manchuria, both China and Japan have accepted the obligations under the various resolutions of the Council of the League of Nations. On our part we have been sincerely carrying out these obligations. During the Council meeting of December 10 our delegate had, in connection with the second paragraph of the resolution of that date, made it clear among other things that China cannot tolerate the invasion and occupation of her territory by the troops of any foreign country.

According to reports we have recently received, however, the situation is daily becoming more critical. The facts are briefly as follows. On 21st instant under the pretext of bandit suppression the Japanese troops occupied Fakumen. Two days later Tienchwangtai was occupied by Japanese infantry and cavalry with armored trains on the Chinese-owned Kowpangtze-Yingkow Railway. At the same time Japanese planes also bombarded and machine-gunned Panshan. For the purpose of attacking Chinchow the Japanese are calling the regular Chinese army bandits whereas as a matter of fact they are hiring bandits in large number and providing them with guns to create disorders. More Japanese reinforcements are being sent to Shanhaikwan, Chinwangtao and other places.

It is beyond doubt that Japan is intentionally disregarding her obligations under second paragraph of Council's resolution on December 10th and that she

¹⁵ Not printed.

is also ignoring Your Excellency's statement in regard to the same paragraph to the effect that it is indispensable and urgent to abstain from any initiative which may lead to further fighting and from all other action likely to aggravate the situation. The present situation in Chinchow and other places is becoming worse and more critical than before. I therefore have the honor to make this urgent appeal to Your Excellency for the immediate adoption of effective measures to deal with this situation with a view to giving effect to the resolution of December 10."

The text of this note was transmitted to the Secretary-General of the League under date of December 29 by Berthelot on behalf of Briand with the following covering letter:

"I have the honor to forward to you herewith for the information of the members of the Council a letter from the Chinese delegation handed to me by Mr. Hoo on the 28th instant.

I informed Mr. Hoo that the French Government and to my knowledge several other Governments also had already taken steps at Tokyo to draw the Japanese Government's attention to its engagement under the resolution of December 10th that it would refrain from any initiative which might aggravate the situation."

The foregoing are given in full as it is felt that summarization or excerpts therefrom might be misleading.

GILBERT

extraterritoriality might better be abandoned in criminal cases than in civil cases. The China Association argues that Chinese courts would be competent in criminal cases, while corruption in civil cases would completely destroy foreign investment in China.

Foreign Office handed me today copy of memorandum, dated December 27, from Lampson⁶ to Wang in reply to memorandum from Wang, dated December 17, almost identical with that set forth in paragraph 1 of the Department's telegram 331, December 29, 6 p. m.⁷ Last paragraph of Lampson's memorandum reads as follows:

"... His Majesty's Government do not understand necessity for message from Minister for Foreign Affairs and hesitate to believe that final sentence cloaks any intention on the part of Chinese Government by precipitate action to prejudge course of normal negotiations. His Majesty's Minister is instructed to add that His Majesty's Government⁸ regards it as most important to prospects of a favorable conclusion to negotiations, that atmosphere should not be embittered by threats on either side."

ATHERTON

793.003/493 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, January 13, 1931—3 p. m.

14. Your No. 12, January 8, 1 p. m.,⁹ especially paragraph 4.

In order that the Department's view and objective may be clearly understood, Department submits the following:

1. Please note again contents of the Department's 452, December 31, 6 p. m.,¹⁰ and memorandum of December 27 to Chinese Legation.¹¹

2. Department does not feel that either side should be regarded as "petitioners" in this matter. The American and the Chinese Governments have agreed to negotiate and are negotiating with regard not to future concessions but to disposal to be made of rights actually in existence.

3. The Department believes that the time factor is now of importance. Department's recent communications to London have been intended in part to cause the Foreign Office to realize that this Government believes prompt action and offer of some concessions desirable. The Foreign Office has expressed to London Embassy in informal conversations virtual concurrence in the views expressed by Depart-

⁶ Sir Miles Lampson, British Minister in China.

⁷ *Foreign Relations*, 1930, vol. II, p. 503.

⁸ "Principal Secretary of State for Foreign Affairs" in original memorandum.

⁹ Not printed.

¹⁰ *Foreign Relations*, 1930, vol. II, p. 505.

¹¹ *Ibid.*, p. 500.

ment. Absence of British Minister from China makes it difficult to cooperate through other than Washington-London channel. Department, adhering to the principle of cooperative but independent action, perceives no method by which the Powers can, in reasonably near future at least, "join hands and agree upon a minimum of safeguards".

4. While the factors discussed in paragraphs 3 and 4 of your telegram under reference have an important bearing upon the extra-territoriality negotiations and therefore must not be overlooked in deciding our future course of action in regard to those negotiations, the Department is decidedly of the opinion that they should not be allowed to confuse, delay or hasten our course of action. The Department has committed itself to negotiations and no ground should be given to the Chinese Government, particularly at this stage, which could be utilized in making it appear that we are in any way responsible for a deadlock or failure which may be the ultimate fate of the negotiations.

5. The Department feels that the plan of action outlined in the third and fourth paragraphs of its telegram No. 452 of December 31, 6 p. m., should be followed. The Department's new draft will be ready shortly. This draft will be communicated to the British Foreign Office through the Embassy in London,¹² and after conference Department expects to communicate new proposals to Minister Wu here¹³ and to the Minister for Foreign Affairs through you.¹⁴ Possibly the British Government will also be prepared to submit similar new proposals at the same time. This would be desirable, but not necessary.

6. If the Chinese Government finds the proposals next submitted unacceptable the Department will then expect to consider naming its maximum concessions. If the British Government then concurs, it may be that the two Governments can communicate identic notes in regard thereto. This is a line of procedure which, it would appear from the remarks contained in paragraphs 2 and 4 of your telegram under reference, both you and Lampson have in mind; but the Department does not believe that this step should be taken until after our new proposals have been communicated and been given consideration, since the submission of a statement affirming or implying that we will make no further concessions may lead to an attempt at unilateral action on China's part.

The preparation of modified proposals at this time is a part of the effort which this Government had made and will continue to make to show itself responsive to China's aspirations while at the same time seeking to solve the problem presented by the conclusion of an agree-

¹² Instruction No. 640, January 20, 1931, to the Ambassador in Great Britain; not printed.

¹³ See statement to the Chinese Legation, February 7, 1931, p. 726.

¹⁴ Instruction No. 374, January 19, 1931, to the Minister in China; not printed.

ment which will be mutually satisfactory and will reasonably safeguard the interests of all concerned.

7. In the absence of the British Minister from China, the Department feels compelled for the time being to carry on the effective phases of the discussion in so far as British Government is concerned through the London Embassy.

8. In exchanging views with the British Legation you should have the above in mind.

9. Please give the Department by telegram, for its early consideration, your conception of the "minimum of safeguards" upon which this Government might stand.

STIMSON

793.003/503a : Telegram

*The Secretary of State to the Ambassador in Great Britain (Dawes)*¹⁵

WASHINGTON, January 19, 1931—1 p. m.

16. Department's No. 334, December 31, 1 p. m.,¹⁶ last paragraph, and your No. 3, January 2, 6 p. m.

1. Department has prepared a new set of proposals, a copy of which is being mailed to you,¹⁷ in regard to which the Department desires that you inform the British Foreign Office.

2. For convenience of reference, the numbering of articles is being retained as in the draft of October 28.¹⁸

3. The three principal changes are the deletion completely from draft of October 28 of the provisions of Article 4, for evocation, and the provisions of Article 13, for the opening of all of China to foreign residence and trade; and a complete revision of Article 9 in regard to the jurisdiction to be retained by the United States.

4. Other changes as compared with the draft of October 28 have been made, in order to define more clearly the safeguards which we are seeking. They are substantially as follows:

Preamble: First paragraph now provides for publication and communication of Chinese laws; second paragraph of old draft, which provided for application of Chinese law in American courts, has been deleted, in view of the proposed limitation of jurisdiction of those courts; and third paragraph now merely provides for coming into effect of new treaty upon exchange of ratifications.

1st Article: The jurisdiction of the Chinese police courts is enlarged to include cases involving fines not exceeding \$15; also some changes in phraseology.

¹⁵ Repeated (beginning with par. No. 1) to the Minister in China in telegram No. 20, January 20, 1931, 11 a. m.

¹⁶ *Foreign Relations*, 1930, vol. II, p. 504.

¹⁷ Instruction No. 640, January 20, 1931; not printed.

¹⁸ *Foreign Relations*, 1930, vol. II, p. 472.

2d Article: Nomination and selection of legal advisers is left to the Chinese Government without reference to the Hague Court; also some changes in phraseology.

3d Article: All clauses relating to taxation and expropriation of property are now included in this article. Provision has been added for enforcing fiscal legislation against American nationals by instituting actions in the competent courts only.

4th Article: Blank.

5th Article: Remains the same in substance but with changes in phraseology.

6th Article: This has been revised to permit jurisdiction of the Chinese courts, applying as far as possible American law, in those cases in which persons subject to Chinese jurisdiction are directly interested.

7th and 8th Articles: Remain in substance the same.

9th Article: Now reads: "The United States of America shall no longer exercise civil jurisdiction over its nationals in China except within a radius of 10 miles from the present Custom Houses in the treaty ports of Shanghai, Tientsin, Hankow, Canton and Harbin. The judicial and administrative jurisdiction which the United States of America now exercises over its nationals in China shall continue to be exercised by the United States of America in other than civil matters but subject to the provisions with regard to minor offenses specified in Article 1 of this treaty."

10th Article: Remains the same except that provision in regard to expropriation of property has been transferred to 3d Article.

11th Article: Remains in substance the same.

12th Article: Contains a new provision to prevent the bringing of suits in regard to acts which shall have taken place prior to the contemplated date on which the Chinese courts shall assume jurisdiction over American nationals for which acts at the time of commission they were not liable according to the laws of the United States but for which they might be liable according to Chinese law.

13th Article: Blank.

14th to 17th Articles, inclusive: Remain in substance the same.

5. With regard to the view of the China Association in reference to civil cases, as reported in the third paragraph of your telegram under reference, Department believes that the retention of civil jurisdiction in the areas named in Article 9 of our new draft will give ample safeguard in that connection. The statement which you quote indicates that 60 per cent of extraterritorial cases arise in Shanghai alone.

6. Department believes that it will be advantageous if American and British Governments both submit, but separately, at an early date, new sets of proposals on the lines of our new draft under reference. If the Chinese Government should show inclination to negotiate treaties on the basis of these similar but separate proposals, negotiations might proceed with reasonable chance of success. If they decline, a possible alternative course might be, thereafter, to

communicate, jointly or separately, statements of the maximum concessions which it is felt can be made. Ultimately, if the Chinese Government should declare the indicated maximum concessions unacceptable, a situation would be faced which could be dealt with only according to the circumstances then prevailing, since action would necessarily have to depend to a large extent on position taken by and overt acts of Chinese authorities.

7. Department requests a full and frank expression of the views of the Foreign Office, and would hope that we may be in position within a few days to submit new proposals, substantially as above outlined, to the Chinese Minister here and to continue our negotiations.

8. You will observe that in the draft under reference we are giving support to the British effort to preserve extraterritorial rights in treaty ports named; also that we still present the ideas both of retaining criminal jurisdiction and appointing legal advisers. You should inquire whether, as between criminal jurisdiction and legal advisers as per this draft, the Foreign Office wishes to make any new comments in regard to relative importance.

STIMSON

793.003/505 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, January 21, 1931—4 p. m.

[Received January 21—1 p. m.]

35. Department's telegrams, 14, January 13, 3 p. m., 9th paragraph, and 20, January 20, 11 a. m.¹⁹

(1) In any settlement of the extraterritoriality question, I feel the following is what we should be ready to insist upon :

(a) Tax exemption: Should include something akin to article 4 in the counterproposal handed to the British, modeled upon article 3 (a) of the American proposals of October 28, 1930.

(b) "Personal status": Unless this term is understood clearly in international law, the wording used in article 10 of the American proposals as to personal status should be insisted upon. Whether this can be made reciprocal, I do not know.

(c) Real property titles: Article 8 of the American proposals covering this should stand as much as possible as written.

(d) Shanghai: Exclusion of the International Settlement from the agreement should be insisted upon, and article 9 of the American proposals should be insisted upon as it stands. The article on

¹⁹ For latter, see footnote 15, p. 719.

Shanghai might stipulate that a separate and later arrangement will deal with the future status of foreigners at Shanghai.

(e) Article 10: The entire article of the American proposals as now worded should, I think, be insisted upon. In particular, I think, it should be insisted upon that warrants for search and arrest cite upon their faces titles and section of the law governing the action which is authorized. Freedom of American nationals should also be insisted upon as regards military service, taxation, etc.

(f) Article 11: This article of the American proposals on the status of American business organizations should, I think, be insisted upon as it stands.

(g) Residence and trade: The Chinese counterproposals omit all reference to the individual's right to freedom of residence and trade in the Chinese interior. This is done by design, since the Chinese do not wish foreigners to be granted such rights. This right is a corollary [*sic*] to the restriction of foreigners to special areas and should, therefore, be insisted upon with the relinquishment of all extraterritorial rights.

(2) As to co-judges, I do not know where the British now stand on this subject. When the matter was discussed in March between Lampson and me, the British Government was insisting upon the presence at trials of co-judges and rather expected to concede criminal jurisdiction to the Chinese if they would use foreign co-judges in the courts. Some consideration should be given this matter in any new drafts of proposals. Personally, I am doubtful as to the value of having foreign co-judges, because I am of opinion that they will become merely scapegoats upon whom will be heaped the odium which arises from any difficulties in the trial of cases.

JOHNSON

793.003/509 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, January 27, 1931—7 p. m.

[Received January 27—5 p. m.]

30. My 28, January 26, 1 p. m.²⁰ I had a conversation Wellesley today who speaking for himself said Foreign Office expects to be able to accept all the amendments as set forth in the Department's telegram 16, January 19, 1 p. m., but as regards criminal jurisdiction believes the British Government's decision may be that it will be wiser to surrender this as originally proposed by Lampson in order to secure more adequate safeguards in other directions.

Wellesley also pointed out that before statement of Government on British proposals can be final not only must the Secretary of State and Legal Adviser have further time for examination but the approval

²⁰ Not printed.

of the Dominions must be received as well. However Wellesley indicated strongly the Foreign Office opinion that far more might be achieved by discussing the proposals direct with Wang in Nanking than through the Chinese Minister in London (and inferentially or through the Chinese Minister in Washington).

However Lampson will not be back from his present mission in Southern China until February 20 when he will presumably receive instructions discuss British proposals direct with Wang at Nanking. Consequently Wellesley indicates that if the Department of State intends submit proposals to Chinese Minister in Washington "within a few days" the delay necessary for Wu to communicate with Nanking may not be incommensurate with time necessary for British instructions to reach Lampson who will discuss them directly with Wang in late February.

Wellesley obviously hopes if the new proposals submitted by the two are not identic that in the course of the negotiations with the Chinese any major differences may disappear.

DAWES

793.003/512 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, January 29, 1931—10 a. m.

[Received January 29—2:50 a. m.]

46. Department's telegram No. 20, January 20, 11 a. m.²¹

1. British Chargé d'Affaires informed me yesterday that he had received from his Government information regarding communication made to Foreign Office by American Embassy and had been asked to comment.

2. In regard to proposal to drop evocation from the draft he said that he did not wish to commit the British Minister, now absent, one way or other but that he believed that the matter should be left to the negotiator to be dropped in the course of negotiations as he felt his way along.

3. With reference to article 9 he referred the matter to British Consul General at Shanghai and has received the following comment thereon which he is transmitting to London:

"American redraft of article 9 seems to me and the Crown Advocate ambiguously worded. It was originally intended as an exclusion article but now deals partly with excluded areas and partly with jurisdiction in all China. As regards the latter it is redundant to article 1 and article 15.

In particular it does not say clearly whether minor criminal jurisdiction specified in article 1 is or is not surrendered to the Chinese po-

²¹ See footnote 15, p. 719.

lice courts in excluded areas. One is left to infer that it is by implication.

If it is surrendered then I would point out that there are no Chinese police courts in foreign settlements of Shanghai. In greater Shanghai police offenses are dealt with bureaucratically by the chief of police. In the International Settlement minor offenses committed by state [*sic*] are dealt with by special district court and in the French Concession by the mixed court. It is therefore undesirable to give the Chinese any excuse for claiming the right to establish police courts in foreign area, especially the International Settlement, in order to exercise such minor jurisdiction.

If it is decided to surrender minor criminal jurisdiction in excluded areas I would urge that the above points be covered, but I suggest that it would be simpler merely to exclude the areas specified from the operation of the whole agreement as originally intended."

4. With reference to article 13 he is urging that this be retained. If in any negotiations relating to extraterritoriality we concede the Chinese the right to exclude aliens from residence and trade in the interior there would appear to be little chance of our obtaining this right later.

JOHNSON

793.003/514a : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, January 30, 1931—5 p. m.

30. Concerning extraterritoriality, please inform the British Foreign Office of the Department's intention early next week to resume discussion of this subject here with the Chinese Minister, using as a basis therefor the substance of the draft outlined to you in the Department's 16, January 19, 1 p. m., and the text mailed you in instruction 640, January 20.²²

STIMSON

793.003/521 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, February 3, 1931—1 p. m.

[Received 1:50 p. m.²³]

34. By appointment today I had conference with Chinese experts at Foreign Office who pointed out completed draft of new proposals, forwarded with Department's instruction No. 640, January 20th,²⁴

²² Latter not printed.

²³ Telegram in three sections.

²⁴ Not printed.

had only reached Foreign Office on January 28th. Wellesley indicated that in some particulars they differed from the telegraphic summary contained in Department's 16, January 19, 1 p. m., and certain clauses he found were not entirely clear. With a view to Department's confidential telegram 30, January 30, 5 p. m., he regretted Foreign Office consideration was limited. Foreign Office experts repeatedly expressed preference for foreign governments gradually yielding in course of negotiations with Chinese rather than for such full acquiescence to Chinese claims as set forth in American proposals which might be expected to inspire Chinese to demand yet further concessions.

Viewpoints informally expressed in following agreed summary of conversation this morning have, I understand confidentially, been approved by Foreign Office experts, although not yet submitted to final authority of Secretary of State.

"Foreign Office is seeking the authority of the Secretary of State to abandon evocation, criminal jurisdiction and co-judges, in that order if it is found during the course of negotiations at Nanking that these successive concessions are necessary in order to ratify [*reach*] a satisfactory settlement with the Chinese. Pending the decision of the Secretary of State on this recommendation Foreign Office has the following observations to offer on the new American draft proposals:

Any concessions which British may agree to make should be made gradually in the course of negotiations 'at Nanking' and not all at once. Foreign Office therefore deprecates presentation of new draft in Washington as proposed by State Department but thinks such action would do no harm provided new draft does not go further than abandonment of evocation. Any further concessions on matters of substance 'at the present stage' would in its opinion be a mistake.

Specific points in the new draft to which Foreign Office would like to call State Department's attention:

1. Co-judges. The telegraphic summary of the new American draft did not make it clear that it was proposed to abandon the safeguard that legal advisers should act as co-judges. Therefore anything said in previous conversations must be modified in the light of new proposals received. Foreign Office is recommending to the Secretary of State that it might be advisable to abandon co-judges at a later stage of the negotiations, but it seems that it would be a great mistake in tactics if the United States Government was adverse [*were*] to include any such concession at the present stage in the new draft which it now proposes to present.

2. Minor criminal jurisdiction in Shanghai. British Consul General in Shanghai would greatly prefer the complete exclusion of Shanghai as originally proposed. Foreign Office should therefore prefer that the American Government should not make this concession at the present time.

3. Personal status matters. Foreign Office advised that it is by no means clear what is the effect of the new draft of article 6. It makes provision for cases where some of the parties are Americans and others are not, but it is not claimed [*clear*] why in such cases, the Chinese

courts should apply American law exclusively. The question of mixed cases is a difficult one but it might be better to leave the Chinese to raise it (in the case of Turkey, it was simply ignored). It is not clear to what cases the proviso about estates is intended to apply. For all these reasons it seems to Foreign Office better to maintain the original proposal for the complete exclusion of personal status matters.

4. The State Department enquires as to Foreign Office view with regard to the relative importance of criminal jurisdiction and legal advisers. As the Chinese are willing to employ legal advisers the question of relative importance does not appear to arise. All that appears to be necessary is to persuade the Chinese to enlarge the functions of their legal advisers and to consent to their being of foreign nationality only. It is observed that in the new American draft, the functions of the legal advisers have been, to some extent, cut down; as for example, as regards domiciliary visits, et cetera. Foreign Office is opposed to abandoning co-judges at the present stage but subject to the approval of the Secretary of State, Foreign Office thinks it is advisable to surrender criminal jurisdiction, if necessary, in order to get full requirements as regards legal advisers in addition to the exclusion of Shanghai, etc.

5. Article 3. Taxation. The redraft of this article abandons certain provisions which may be of value. Foreign Office should prefer to retain these until we have ascertained the views of Lampson and the reaction of the Chinese authorities. This latter can only be ascertained in the course of personal negotiations at Nanking.

6. Article 8. Real property. Foreign Office would prefer to retain the original draft of this article for the same reasons so [as] in the case of article 3.

7. Article 13. Foreign Office strongly deprecates dropping the stipulation regarding residence in the interior. Tactically such a stipulation puts treaty powers in a strong position with the Chinese; moreover, this is a matter to which Japan attaches importance and it will be difficult to keep Japan in line if this stipulation is dropped without any reference to her views on the matter."

DAWES

793.003/521a

*The Department of State to the Chinese Legation*²⁵

EXTRATERRITORIALITY

Statement to the Chinese Minister

Reference is made to:

(1) The proposals of the Department in regard to extraterritoriality handed to the Chinese Minister on October 28, 1930.²⁶

(2) The counter proposals of the Chinese Government handed to the Department by the Chinese Minister on December 7, 1930.²⁷

²⁵ Statement read and handed to the Chinese Minister by the Chief of the Division of Far Eastern Affairs on February 7, 1931.

²⁶ *Foreign Relations*, 1930, vol. II, p. 472.

²⁷ *Ibid.*, p. 485.

(3) The Memorandum communicated to the Department by the Chinese Legation on December 19, 1930.²⁸

(4) The Memorandum of the Department communicated to the Chinese Legation on December 27, 1930.²⁹

With a view to adjusting the differences between the American and the Chinese proposals referred to in (1) and (2) above, there are submitted for the consideration of the Chinese Minister and for informal discussion observations as follows: (Note: For convenience, the references to articles and pages will follow the numbering of articles and pages in the American draft of October 28, 1930.)

Preamble, Page 1.

We would be prepared to agree to the preparation, publication and placing on sale of an edition of the laws and regulations of China, with translations, by the Chinese Government instead of the arrangement provided in the American draft of October 28, 1930.

Preamble, Page 2.

We would be prepared to drop the proposal for temporary enforcement of Chinese laws in the American courts in China.

Preamble, Page 3.

We would be prepared to modify this paragraph to read as follows:

"The following agreement for the transfer of jurisdiction over nationals of the United States of America in China from the American to the Chinese courts shall come into effect upon the exchange of ratifications."

Article 1. Transfer of Jurisdiction. Pages 4, 5, 6 & 7.

We would be prepared to assent to extension of the jurisdiction of the Police Courts to cases involving fines up to \$15 and to agree to detention in such cases at the rate of one dollar per day when the fine imposed is not paid.

We would desire to make some changes in the phraseology of Article 1.

Article 3. Taxation. Pages 15 and 16.

We would desire to group in Article 3 all clauses relating to taxation and expropriation of property and to include a provision that fiscal legislation shall be enforced against American nationals by no other process than that of action in the competent courts.

Article 4. Rights of Evocation. Page 17.

We would be willing to drop the proposal with regard to evocation.

²⁸ *Ibid.*, p. 497.

²⁹ *Ibid.*, p. 500.

Article 5. Arrest, Detention and Trial. Page 18.

We would be prepared to make the slight change in phraseology of Article 5 which would be necessary to take care of the extension of the jurisdiction of the Police Courts to cases involving fines up to \$15, as per Article 1.

Article 7. Arbitration of Civil or Commercial Controversies. Page 20.

We would be prepared to revise Article 7 to make it conform more nearly to Article VII of the Chinese proposals of December 7, 1930. This revision would involve deletion of the words "or is vitiated on other grounds recognized by the general principles of law" which are found in Article VII of the Chinese proposals, for the reason that these words give to the courts such wide powers in regard to arbitration cases as would practically nullify altogether the apparent intent of the article.

Article 8. Title to Real Property. Page 21.

We feel that Article 8 can be redrafted in a form more acceptable to the Chinese Government. As the Chinese Government is aware, the procedure and practices in China which govern the stamping of title deeds have varied from time to time and from place to place. For this reason, it is difficult to draft an article sufficiently comprehensive to cover all phases of the rights of American nationals in immovable property in China. We desire only, however, to have some pledge from the Chinese Government that the legitimate rights of Americans in immovable property in China will not be questioned on merely technical grounds and that such property will not be subject to any form of discriminatory taxation, to military levies of any kind, or to expropriation in any form except for reasons of public interest in accordance with some duly enacted and promulgated law and after adequate compensation has been paid in advance.

Article 9. Reservation. Page 22.

We would propose that Article 9 be redrafted.

Article 10. Immunity of Nationals of the United States of America and their Property and Shipping from Searches. Pages 23-27 inclusive.

As stated in the observations on Article 3, above, we would desire to transfer from Article 10 to Article 3 the provisions in regard to expropriation of property.

Article 11. Treatment to be Accorded American Business Organizations in China. Page 28.

We would suggest a few minor changes in the phraseology of Article 11 which will not materially alter the substance of the Article.

Article 12. Understanding Regarding Pending cases. Page 29.

We would desire to make a few minor changes in the phraseology of Article 12 and to add a provision which would prevent or limit the bringing of suits in regard to acts committed before the date on which the Chinese courts assume jurisdiction over American nationals.

Article 13. Rights of Residence and Trade. Page 30.

We would be prepared to discuss possible modification of Article 13.

Article 14. Non-discriminatory Treatment for Nationals of the United States of America in China. Page 31, and

Article 15. Provision of Existing Treaties to Remain in Force. Page 32.

We would desire to make a few minor changes in the phraseology of Articles 14 and 15 which will not materially alter the substance thereof.

Article 16. Definition of the Expression "Nationals of the United States of America." Page 33.

We would desire to add at the end of Article 16 a clause which will ensure that the expression "Nationals of the United States of America" shall be understood to include juridical persons.

Article 17. Ratification and Duration. Pages 34 and 35.

We would desire to make a few slight changes in the phraseology of Article 17 which will not materially alter the substance thereof.

In preparing a new set of proposals in consequence of careful study of the Chinese Government's draft proposals of December 7, 1930, it is believed that it is warrantable to recall that, from the inception of the present negotiations in 1929, the Department has stated officially, on several occasions, to the Chinese Government that the American Government is willing to negotiate for the conclusion of an agreement providing for gradual relinquishment of the extraterritorial rights in China of the United States. It has been assumed that the Chinese Government, in entering into negotiations accepted that principle. In the light of all attendant circumstances, the Department is still of the opinion that there must be, for the mutual benefit and satisfaction of all parties concerned, in the agreement which is to be concluded, provision for the gradual relinquishment of the rights under discussion.

It is realized that the present system of extraterritoriality is a source of irritation as between the Chinese people and the nationals of those powers which possess extraterritorial rights. In view, however, of existing conditions, the Department is firmly convinced that the complete abolition of extraterritorial rights at this time or in the

near future, without agreed-upon provisions for the gradual readjustment which must be effected, would be likely to create new sources of irritation between the Chinese people and American nationals residing in China, and add to the number and complexity of the problems that arise in the official relations between our two countries.

The Department is in sympathy with the desire of the Chinese people to bring to an end the extraterritorial system in China and is desirous of making every effort within its power in this regard. However, it cannot be blind to the fact that there have been built up in China under the extraterritorial system during the past 87 years large American (and associated Chinese) interests. The safeguarding of these interests requires that some transitional arrangement be provided to bring about by an evolutionary process the change from the existing system of extraterritorial jurisdiction to the new system under which these interests will be completely subject to the jurisdiction of the Chinese Government.

The Department feels that the project which it has in mind would provide such a transitional arrangement and would afford the Chinese Government an opportunity to demonstrate to American nationals residing in China that they need have no fear of submitting themselves to the jurisdiction of competent Chinese authorities.

It is hoped, therefore, that the Chinese Minister will be able to give his earnest and serious consideration to this project, in order that there may be a common basis for discussion with a view to the drafting, at an early date, of a treaty.

[WASHINGTON,] February 7, 1931.

793.003/522

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck)*

[WASHINGTON,] February 7, 1931.

Referring to the statement to the Chinese Minister, on extraterritoriality, which was read and of which a copy was handed to the Minister today,³⁰ Mr. Hornbeck made orally an additional statement, as follows:

"The Minister will notice that the Department has expressed a hope that the Chinese Government will give earnest and serious consideration to this project, in order that the actual drafting of a treaty may be begun as soon as possible. The Department is serious in the view which has been expressed that the conditions existing in China today

³⁰ *Supra.*

make it necessary to provide for a transitional arrangement preparing the way for the complete abolition of extraterritoriality at a later date.

"In the written statement which is being handed to you, the Department has refrained from quoting statements of high Chinese officials and other leaders of Chinese thought but as an indication of what the Department has in mind in this regard, reference is made to the following remarks which were reported, according to a Chinese source, to have been made by President Chiang Kai-shek in October, 1930:

"One of the most serious criticisms which foreigners have directed at us is that, while we have issued a number of manifestos and formulated countless schemes and programs, few of them have been translated into realities. When we dispassionately scrutinize our past work, we can not but admit the justice of such charges. For the deplorable state of affairs prevailing in the country we should blame, not the aggression of foreign imperialists, but rather ourselves."

There has also been omitted reference to the desperate conditions which prevail in several parts of China as a result, principally, of the recent civil war and political contests; to the prevalence of banditry and "communism" in almost every part of China; to the kidnapping of a large number of foreigners and the murder of some, and to losses which have been suffered generally by all foreign interests and by millions of Chinese. We are all familiar with these facts; there is no need to make of them an exhibit, least of all to make an account of them a matter of present record. Nevertheless, account must be taken of them and foreign governments, in dealing with the important question of the position of their nationals in China, cannot be blind to them.

"The Department has noticed in press reports emanating from China, particularly those of a semi-official agency, that certain members of the National Government at Nanking are urging that the Chinese Government take drastic action if the American Government and other governments concerned do not agree in the immediate future to the complete abolition of extraterritoriality. It is hoped that these utterances are not to be regarded as representing the views of the Chinese Government, for the reason that drastic action if undertaken, would produce a very serious situation which might compel the American Government and/or other governments to take special steps for the safeguarding of the rights and interests of their nationals.

"I am sure that you yourself realize the difficulty and seriousness of the problem and that you will not fail to impress upon your Government that, while the American Government is prepared to go a long way toward meeting the legitimate wishes of the Chinese people in regard to the question of extraterritoriality, it cannot be stamped into assenting to any arrangement which fails to safeguard the interests of the nationals of the United States of America in China which have been built up lawfully during the past eighty-seven years on the basis of mutual and reciprocal assurance and accommodation provided by the treaties."

793.003/524b : Telegram

The Secretary of State to the Ambassador in Great Britain (Dances)

WASHINGTON, February 10, 1931—noon.

35. Your 34, February 3, 1 p. m., and previous.

[Paraphrase.] In deference to the suggestions and views of the British Foreign Office, the Department's proposal for procedure respecting extraterritoriality has been modified, and the Department has proceeded as follows:

(1) A written statement was read and handed to the Chinese Minister on February 7.²¹ Reference was made in this statement to the Department's proposals of October 28, 1930, to the Chinese counter-proposals, to their memorandum of December 19, and to the Department's December 27 memorandum in reply. There followed an outline, in summary, of the manner in which and the points on which the Department in preparing a new draft would be willing to deviate from and to make changes in its October 28 draft proposals. There was then reaffirmed the stand which has been taken throughout by the Department that a transitional period must be provided in any agreement concluded, and the hope was expressed that the Chinese would be ready soon to enter into the actual drafting of a treaty. This statement was orally supplemented by a statement which emphasized the seriousness attached to this matter by the Department and which pointed out that no assent could be given a plan which does not provide for an evolutionary transition.

(2) No draft of proposals is being submitted for the time being. The Department is working upon a new draft, in which the proposals regarding co-judges are being retained as in article 2 of the October 28 draft. Likewise, as in article 9, provision regarding excluded areas. Likewise, as in article 6, provision regarding personal status matters. Likewise, as in article 13, provision regarding rights of residence and trade.

(3) However, the Department would be prepared, if and when actively resuming its negotiations, to make concessions as to these matters. Both the suggestions already submitted by the Department and the counter-suggestions of the British Foreign Office and its officials in China (about which the American Minister there has informed the Department) will be kept in mind. [End paraphrase.]

(4) Text of written statement follows:

[Here follows text of the Department's statement read and handed to the Chinese Minister on February 7, 1931, printed on page 726.]

(5) You may advise the Foreign Office of the above and give them, in confidence, text of written statement, explaining that this statement

²¹ *Ante*, p. 726.

is to be regarded as a statement from one negotiator to another and not as a communication between Governments. You may state in addition that the Department now awaits such reply, if any, as the Chinese Minister may make and that the Department will keep you informed of developments.

STIMSON

793.003/524a : Telegram

The Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, February 10, 1931—noon.

44. Your 35, January 21, 4 p. m., and 46, January 29, 10 a. m. Through the Embassy in Great Britain, the Department has consulted the British Foreign Office, and your comments and those reported in your No. 46 of British officials and the suggestions and views of the British Foreign Office have been given consideration.

With regard to the present status of the extraterritoriality negotiations, a telegram has been sent to the Embassy in London as follows:

[Here follows text of telegram No. 35, February 10, 1931, noon, printed *supra*.]

In view of the attitude, as revealed in the recently exchanged telegrams, of (1) the Chinese Government and (2) the British Foreign Office, the Department believes you had best plan to go to Nanking before the end of February and a few days after the British Minister's expected arrival there on February 20.

The British Foreign Office now appears to be ready to yield evocation, criminal jurisdiction, and co-judges, in this order, should such action become apparently necessary and advisable following Lampson's return and resumption of negotiations for the sake of reaching an agreement. If necessary, the Department would be ready to make these concessions, but it would prefer giving Lampson an opportunity to get his bearings and explore the situation before the Department makes its new proposals.

You may inform your British colleague discreetly of such portions of the foregoing as you deem advisable.

STIMSON

793.003/530 3

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] February 20, 1931.

The Chinese Minister came to see me this morning to leave with me the attached memorandum on extraterritoriality.²² He said that

²² *Infra*.

it was his own idea, but as it follows most accurately the statement by the Kuo Wen News Agency which we got by cable this morning³³ as to what China intended to do, I suppose it is the result of instructions from his Government. The Minister asked me whether I had any comments to make and I said I had not. I reminded him that the conversations at present were informal conversations between him and Dr. Hornbeck. I read the memorandum, however, and let him see that I was disappointed in its tenor. I told him that Dr. Hornbeck would soon be back and that I had no doubt we could shortly inform him as to our reaction to his statement. He pointed out that the situation in so far as China was concerned was, in his opinion, very similar to the Turkish situation when there was an attempt to negotiate the Lausanne Treaty. He said that at the first conference Lord Curzon said it was impossible to give up any privileges and left, that three months later he came back and granted everything Turkey had asked for. The Minister said he thought the whole question was largely psychological and added that the nations which had already given up extraterritoriality had had no trouble in China. I said this was quite contrary to my understanding, that I understood they had had rather serious trouble. His only answer to that was that he thought foreigners had trouble in any country. I said that, although foreigners might get themselves into trouble in any country, I thought they had a right to justice. He said that the Strawn Commission had made various suggestions³⁴ which China had not accepted. I said to that that the Strawn Commission was giving certain friendly advice to China and that, if China had followed out the recommendations, I thought the situation would be very different today.

W. R. C[ASTLE,] JR.

793.003/532

*The Chinese Legation to the Department of State*³⁵

STATEMENT

The Chinese Minister has not failed to give his earnest and serious consideration to the observations contained in the Statement of the State Department handed him on February 7, 1931.

He has noted the renewed expression of the sympathy of the American Government with the desire of the Chinese people to bring to an

³³ Telegram not printed.

³⁴ For summary, see telegram No. 412, September 17, 1926, from the Chargé in China, *Foreign Relations*, 1926, vol. 1, p. 979; also see Department of State, *Report of the Commission on Extraterritoriality in China, Peking, September 16, 1926* (Washington, Government Printing Office, 1926).

³⁵ Statement handed to the Assistant Secretary of State by the Chinese Minister on February 20, 1931.

end the extraterritorial system in China and of its wish to make every effort within its power in this regard. He has also observed that the latest proposals of the State Department, as compared with previous ones, represent some advance in the direction of the desires of the Chinese Government.

Nevertheless there is still a considerable gap between the Department's project and the desires of the Chinese Government. The Chinese Government sees no reason for withholding the transfer of criminal jurisdiction over American nationals in China when civil jurisdiction and police jurisdiction are transferred. The appointment of legal counselors, first suggested by the Chinese Government, must necessarily be made by that Government without restriction of choice as they are its officials; furthermore since they are legal advisers or counselors, it would be detrimental to the independence and dignity of the judiciary if they were to be given, as proposed by the Department, any of the powers and functions of judges. With regard to the proposal that reservation be made of areas where Chinese administrative jurisdiction does not at present apply and of a certain area around Shanghai, the Chinese Minister notes that the Department proposed redrafting of the original article; however, inasmuch as the great majority of American nationals reside in these areas, so that such a reservation would render any transfer of jurisdiction unimportant if not illusory, the Chinese Government desires the suppression of this proposed provision.

These are the main points on which the two Governments at present differ after discussions conducted by the Minister with officials of the State Department for more than two years. At this stage of the discussions, it seems desirable to request a definite statement of the Department's views on them before proceeding to negotiate on other points.

The Chinese Minister notes the Department's solicitude for the safeguarding of American interests that "have been built up in China during the past 87 years" and, with that object, for the making of some "transitional arrangement" "to bring about by an evolutionary process the change from the existing system of extraterritorial jurisdiction to the new system under which these interests will be completely subject to the jurisdiction of the Chinese Government." He permits himself the following remarks.

The abolition of the extraterritorial system, even if brought about immediately, cannot be a sudden surprise to those American interests in view of the well known efforts of the Chinese Government in recent years to that end and the, in any case, approaching extinction of the system by efflux of time. The psychology of American nationals in China,—and the matter seems to be largely if not entirely a psycho-

logical one,—would appear to have had time during the recent years by an evolutionary process to undergo a change and be ready to accept the transfer of jurisdiction. Nevertheless the Chinese Government has been prepared to erect in the judicial system of the country certain institutions, such as special chambers for the trial of cases involving American nationals and legal counselors, which are eminently for the purpose of meeting the solicitude of the American Government for a transitional arrangement and the psychology of American interests.

The same reluctance on the part of foreigners living under extraterritorial regime to emerge from it has been observed in the case of other countries; nevertheless the change has been made, sometimes gradually, sometimes abruptly.

It may be said without fear of contradiction that the present state of Chinese laws and judicial system compares favorably with that of many other countries including some where consular jurisdiction does not and has never existed. Nor do the interests in China of those countries which have given up extraterritorial rights compare unfavorably, as regards protection afforded and their condition of growth, with those of the extraterritorial powers.

The Minister, therefore, trusts that the Department will give a sympathetic and favorable reply to the points raised in this Statement so that the discussions so long conducted between the Department and himself may be brought to a speedy and successful termination.

[WASHINGTON,] February 20, 1931.

793.003/532 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, February 26, 1931—1 p. m.

67. Legation's No. 84, February 24, 5 p. m. and No. 82, February 24, 12 noon.³⁶

1. On February 20 the Chinese Minister handed to the Department a statement which reads in part as follows:

[Here follows text of first four paragraphs and final paragraph of statement printed *supra*, and reference to four unquoted paragraphs.]

2. As it seems that the Chinese Minister is not prepared to carry on the negotiations on the basis of any of the proposals which have been made by the Department or to make any proposals himself except under express instructions from Nanking, and as we feel that any indication on our part at this time of willingness to make further concessions might prejudice the effort which we assume that the British

³⁶ Neither printed.

Government intends to make, through its Minister, at Nanking, the Department feels that the best contribution which it can make for the time being will be temporarily to suspend its efforts and await developments, especially indications of the response which the Chinese may make to the British effort. The Department desires that you ascertain, as far as possible, what, if anything, the British Minister intends to propose, and that you keep in touch with steps taken by him and with developments, and that you keep the Department fully informed.

3. You should inform the British Minister of the above. You are authorized to discuss the whole problem fully and frankly with him and to tell him that until further notice we shall make no new move, thus leaving him a clear field, but that we shall be prepared as soon as the situation may seem to warrant, and upon having given notice, to take new steps.³⁷

4. Comments and suggestions will be welcomed.

STIMSON

793.003/53072

*Memorandum by the Assistant Secretary of State (Castle) of a
Conversation With the Norwegian Minister (Bachke)*

[WASHINGTON,] February 27, 1931.

The Minister came in to read me a telegram which his Government had sent to the Norwegian Minister in Shanghai. The telegram referred to the fact that Norway had officially informed the Chinese that when the Great Powers gave up extraterritorial rights, Norway would follow suit, but that in the meantime it would retain the rights held by the Great Powers. The telegram further instructed the Minister to have an exchange of notes with the Chinese Government confirming this understanding. He then asked me what we were doing and I told him in strict confidence that Doctor Wu had recently intimated to us that China would insist on what amounts to a general abolition of extraterritorial rights, that, therefore, we were simply holding tight for the moment and were waiting to see what the result would be of Miles Lampson's and M. Wilden's³⁸ forthcoming conversation in Nanking.

W. R. C[ASTLE,] JR.

³⁷ The Department similarly informed the Embassy in Great Britain in telegram No. 50, February 27, 1931, 2 p. m., for communication to the British Foreign Office, with the comment that closer British consultation would be welcomed.

³⁸ Henri A. Wilden, French Minister in China.

793.003/543: Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, March 3, 1931—6 p. m.

5. For Minister Johnson: Your March 2, noon.³⁹

(1) The Department notes the delay in action by the British Minister, whose Government, which is waiting for approval by the Dominions, has not yet sent its final instructions.

(2) The Department notes the recognition by the British of the possibility that they may find it necessary as a final measure to concede to China jurisdiction in all its ports except Shanghai. Last week the Department was informed of a London rumor to the effect that it is the British Government's intention to concede everything save jurisdiction at Shanghai.

(3) Regarding your comment on the Department's indication to the Chinese of its readiness to drop evocation, the Department feels obliged to point out that in the last 3 months it has been negotiating, while the British have stood still respecting negotiations; hence, this offer of a concession by the Department is on a par with any similar step, if and when the British Minister takes it when he negotiates. The Department, moreover, consulted the British Foreign Office regarding this proposed action, the Foreign Office suggesting that the Department commence with this concession, just as Sir Miles Lampson apparently intends to start with it. It should be kept in mind that there have been and are both American-Chinese and British-Chinese negotiations on this subject. It should be recalled, for instance, that the British chose to act last September at a moment when the Department was in no position to do so and was advocating delay in favor of simultaneous and coincidental action.

(4) The Department feels that, following the disclosure last December of the Chinese project, the British apparent inability to act with promptitude has jeopardized and may jeopardize further the chance of obtaining an approximately satisfactory treaty. The Department is, therefore, not yet prepared to make common cause with the British to the extent that the negotiations here be transferred to you, thus linking their negotiations definitely with ours. While awaiting developments, the Department prefers to proceed in accordance with its 67, February 26, 1 p. m. After being informed of definite instructions sent Lampson or of any changed attitude on the part

³⁹ Not printed.

of the Chinese, the Department will promptly consider whether the seat of our negotiations might possibly be transferred.

(5) Meanwhile you are instructed to reiterate to the British Minister that this Government is taking no new step for the moment. Lampson should have your full moral support. In conversing with the Chinese Minister for Foreign Affairs, you should make it clear that the American and British Governments hold a common view that they cannot give their assent to a nongradual, complete sweeping away of extraterritorial rights and that neither Government intends to outbid the other in the making of concessions. In regard to relinquishing extraterritorial rights, the problem is to substitute for the present system an arrangement regulating better than at present the contacts between foreigners in China and the Chinese people.

(6) The Department agrees with you that Hu Han-min's⁴⁰ elimination probably will encourage the Chinese Government to be more realistic and conciliatory in its attitude, and the Department wishes you to impress upon Dr. C. T. Wang the desirability of modifying the nonconciliatory attitude which recently has apparently been his. You may in your discretion tentatively and casually inquire of him, in this connection, what his attitude would be if this Government were to propose transferring the negotiations to Nanking for the sake of expediting and simplifying the whole question of negotiations.

STIMSON

793.003/544 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, March 3, 1931—3 p. m.

[Received March 4—6:03 a. m.]

The Japanese Chargé, Shigemitsu, has just told me that on February 28 Ambassador Debuchi⁴¹ was informed by Assistant Secretary Castle of the Department's decision to drop negotiations on extraterritoriality with Dr. C. C. Wu at Washington, owing to dissatisfaction with the Chinese Minister's attitude, wherefore negotiations had been transferred to China.

JOHNSON

⁴⁰ President of the Legislative Yuan.

⁴¹ Katsuji Debuchi, Japanese Ambassador in the United States.

793.003/544 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, March 4, 1931—3 p. m.

6. For Minister Johnson: Your March 3, 3 p. m.

In answer to Debuchi's question concerning the extraterritorial negotiations, Assistant Secretary Castle told him in strict confidence that matters did not appear to be getting anywhere with the Chinese Minister and that the Department would have to consider the transfer of negotiations to China unless progress was made here. You should warn Shigemitsu that a suggestion of this possibility should go to no one. In telegram 5, March 3, 6 p. m., to Nanking, the Department already has suggested that you may deem it advisable to inquire tentatively of Dr. C. T. Wang as to his attitude on the transfer of the negotiations to Nanking. Your comments will be awaited before further action is taken.

STIMSON

793.003/545 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 4, 1931—5 p. m.

[Received March 4—9:45 a. m.]

101. Department's 409, December 7, 6 p. m., 1929;⁴² and [Legation's] 52, March [February] 3, 6 p. m.⁴³

Following from American Consul at Yunnanfu:

"February 27, 5 p. m. Following received by me on February 19th from the Yunnan delegate of Ministry [for] Foreign Affairs:

"With reference to your verbal inquiry as to the procedure to be followed in mixed cases, I have the honor to inform you that I have ascertained from the high court of justice that such cases will be governed by the procedure ordinarily applying to purely Chinese cases without distinction."

I interpret this to mean that American[s] may seek redress or be proceeded against in magistrates' courts as well as higher tribunals and that consular jurisdiction under the treaties is no longer recognized in this Province; however, no mixed cases are now pending before any court and it is not likely that any efforts [will be made?] by Chinese to take jurisdiction over American defendants for the time being. I have acknowledged the foregoing, reserving the right to protest."

For the Minister:

PERKINS

⁴² *Foreign Relations*, 1929, vol. II, p. 642.⁴³ Not printed.

793.003/550

*The British Embassy to the Department of State*⁴⁴

No. 65

WASHINGTON, March 7, 1931.

His Majesty's Ambassador has the honour to communicate to the Secretary of State the attached document giving the substance of the instructions issued to Sir Miles Lampson in regard to Extraterritoriality in China. His Majesty's Government trust that the policy laid down in these instructions will meet with the agreement of the United States Government.

Should that be the case, His Majesty's Government would hope that the United States Minister to China might receive instructions in the same sense. His Majesty's Government would then propose that the United States Minister and His Majesty's Minister should be authorized, at their discretion, to decide when the right moment has arrived to offer the surrender of criminal jurisdiction, and to act accordingly.

[Enclosure]

The British Embassy to the Department of State

EXTRATERRITORIALITY IN CHINA

Substance of instructions sent to Sir Miles Lampson

1. His Majesty's Government do not now propose to prepare any new draft treaty or series of drafts for submission to the Chinese Government. When negotiations are resumed they contemplate, as and when advisable, to authorize Sir M. Lampson to abandon progressively the less essential of the demands contained in the draft of September 11th with a view to obtaining the Chinese consent to safeguards which are vitally important.

2. *Evocation.* This has not been regarded by His Majesty's Government as a point of major importance, and Sir M. Lampson is authorised to give it up as a first step.

3. *Criminal Jurisdiction.* Neither His Majesty's Government nor Sir M. Lampson believe that discussions can be carried to a successful termination until the abandonment of this jurisdiction is conceded to the Chinese. But Sir M. Lampson is instructed not to offer such abandonment unless the United States Government consent to adopt the same course. He is to discuss this matter fully with his United States colleague.

4. Pending consideration of this point by the United States Government Sir M. Lampson is authorised to say that for the sake of

⁴⁴ Handed to the Assistant Secretary of State by the British Ambassador on March 7, 1931.

reaching an agreed settlement of the whole question His Majesty's Government would be willing to make considerable sacrifices, but that in order to win the approval of public opinion they would have to secure in the eventual treaty complete satisfaction on certain points which are regarded as vital.

5. To these points His Majesty's Government attach the greatest importance; and they believe that to secure them it will be necessary eventually to offer definitely to surrender criminal jurisdiction. They are:—

- (a) the powers and functions of the legal advisers.
- (b) certain legal safeguards, which include the methods of assessment, and of deciding disputed assessments; methods of collecting taxes and of enforcing their payment.
- (c) excluded areas.
- (d) if and when criminal jurisdiction is abandoned, questions as to bail, trial and imprisonment.

6. Except as to (c) in all the above points detail is of essential importance. The necessary discussion of them is therefore likely to be lengthy and Sir M. Lampson is to approach this discussion on the basis (a) that no agreement will be possible if arrangements cannot be reached which will completely meet the requirements of British public opinion and (b) that His Majesty's Government will be able to proceed liberally if their requirements are met.

7. With regard to point (a) in paragraph 5 above (legal advisers) it is the understanding of His Majesty's Government that the proposal to confer on these advisers the powers of co-judges will encounter the strongest opposition of the Chinese Government. His Majesty's Government apprehend that by insistence on this, if it were successful, such friction might be engendered as to destroy the utility of these officials as advisers, to which great importance is attached. Sir M. Lampson is therefore authorised, as a final concession, to give up insistence on the point that the advisers should be co-judges.

8. With regard to point (c) in paragraph 5 above (excluded areas) His Majesty's Government consider that the exclusion of Shanghai is the most important interest at stake, even if the area excluded is limited to the International Settlement only. This seems to them vitally necessary. Canton, Hankow and Tientsin are regarded as important but His Majesty's Government think they might be abandoned as a last resort.

9. His Majesty's Government attach the greatest importance to the securing of really satisfactory safeguards in matters of detail, particularly those set forth in paragraph 5 above.

793.003/590

*Memorandum by the Minister in China (Johnson)*⁴⁵

NANKING, March 7, 1931.

I called upon Dr. C. T. Wang, Minister for Foreign Affairs, today and in the course of conversation I referred to the question of extra-territoriality which has been the subject for discussion in Washington between the Secretary of State and the Chinese Minister for some time. I said that I had not discussed this question with him before as I had not wished to complicate in any way the even tenor of discussions in Washington by any discussions of mine here.

Dr. Wang stated that he also had refrained from mentioning the matter to me for the same reason. He said that the Chinese Minister at Washington had been instructed to make a statement to the Department of State in regard to the three principles upon which agreement was still to be found, namely, the questions of co-judges, reservation of criminal jurisdiction and reserved areas. He said that the Department of State had made an evasive answer to the Chinese Minister who had been instructed to press the matter and that they were still awaiting a reply.

I said that I had been informed of this statement by the Department of State and that I had been instructed to say to him in all earnestness that the American and British Governments held in common the view that assent could not be given to a complete and non-gradual sweeping away of extraterritorial rights such as the Chinese Minister in Washington was apparently insisting upon, that there was no intimation on the part of either the American or the British Government to outbid one another in the making of concessions. I said that the problem which faced us in the relinquishment of these rights was that of substituting for the present system an arrangement which would regulate better than the present one the contacts between the people of China and foreigners in China. I expressed the hope that the Minister for Foreign Affairs would see this question as we saw it and that some way might be found whereby we could reach an understanding. I stated that my Government felt that these principles were necessary to the successful evolutionary processes whereby extraterritorial rights would be relinquished.

Dr. Wang stated that the Chinese Government could not under any circumstances make any concessions in regard to these points, that

⁴⁵ Copy transmitted to the Department by the Minister in his despatch of March 10, from Nanking; received April 7. The substance of the memorandum was reported to the Department in the Minister's telegram of March 7, 1931, noon, from Nanking; received March 7, 10:35 a. m. The final sentence stated that the Minister did not feel the moment propitious to mention a transfer of negotiations from Washington to Nanking. (793.003/549)

until they were given up he felt that there must result a deadlock. He said that if the American Government felt as I had indicated, he must conclude that a deadlock had resulted.

I expressed myself as being very sorry to hear this as I felt there was no need for a deadlock. He stated that he could see no other end to the discussion and that if a deadlock did result, the matter of course must be brought before the People's Conference in May with results which he could not foresee. I inferred from his statement that he anticipated that there would be a heated discussion of the matter in the People's Conference.

I asked him whether I should tell my Government what he had said to me about a deadlock and he said he hoped I would make it very clear that there must be a deadlock unless the American Government would concede these points.

NELSON TRUSLER JOHNSON

793.003/550⁺

Memorandum by the Minister in China (Johnson) ⁴⁶

NANKING, March 8, 1931.

I called on the British Minister this evening and he informed me that he had had his first formal conversation with Dr. C. T. Wang on the subject of the extraterritorial negotiations this morning. He had told Dr. Wang of his instructions and stated that he was ready to discuss the four fundamental principles of evocation, reservation of criminal jurisdiction, co-judges and exclusive areas, upon which no agreement had as yet been reached. He told Dr. Wang that these four principles were of great importance and that the British Government considered them necessary to the success of the gradual and evolutionary process by which the ultimate abolition of extraterritorial rights was to be accomplished.

Dr. Wang told Sir Miles that the Chinese Government could not make concessions regarding these four principles and expressed the fear that a deadlock would result were the British Government to insist upon them. Sir Miles said he did not wish to discuss deadlocks at this stage of the negotiations. He said he desired to take up seriously the question of co-judges and expressed the belief that they could find some mutually satisfactory formula since this was a principle calculated to strengthen the Chinese judicial machinery. Further discussions are to be resumed from this point. It was ar-

⁴⁶ Copy transmitted to the Department by the Minister without covering despatch; received April 28. Memorandum reported by the Minister in telegram of March 9, 1931, 3 p. m., from Nanking; received March 9, 9:50 a. m. (793.003/551).

ranged that Dr. Hsu Mo ⁴⁷ and Mr. Teichman ⁴⁸ were to discuss details regarding guarantees in connection with protection of property rights, taxation, police offenses, bail and imprisonment.

The British Minister and I both agreed that further negotiations would be very difficult if the Minister for Foreign Affairs maintains his present attitude as he appears to be unwilling or unable to offer concessions.

Sir Miles expects to remain in Nanking for the next few days in order to be available for further discussions, but he expects to go to Shanghai on Saturday next for a stay of three or four days.

NELSON TRUSLER JOHNSON

793.003/556

*Memorandum by the Assistant Secretary of State (Castle) of
a Conversation With the Japanese Ambassador (Debuchi)*

[WASHINGTON,] March 9, 1931.

The Ambassador began his conversation by apologizing for having unintentionally misquoted me in a telegram to Baron Shidehara.⁴⁹ He said that, in telegraphing, he explained that we were merely considering the transfer of negotiations to China and that he also told Baron Shidehara to keep the communication entirely secret. He said he was sorry that Baron Shidehara had evidently notified Shigemitsu, but that, of course, it would go no further.

The Ambassador then told me that the Japanese were themselves now planning to inaugurate negotiations with the Chinese on the subject of extraterritoriality. He said that their whole thesis was to press for the gradual abolition as the Chinese were able to meet modern conditions of justice. He said that his Government was determined that there should be no sweeping abolition of consular rights and of extraterritorial questions in general and that it hoped to be able to work closely with us and with the British. He said that he thought full instructions had not yet gone to Shigemitsu, but that he had still undeciphered a telegram covering the ground to some extent, which Kato ⁵⁰ was going to bring to the Far Eastern Division. He said that Shigemitsu had instructions to furnish Johnson with a full copy of his orders.

W[ILLIAM] R. C[ASTLE], JR.

⁴⁷ Director of European-American Division of the Chinese Foreign Office.

⁴⁸ Eric Teichman, Chinese Secretary of the British Legation in China.

⁴⁹ Japanese Minister for Foreign Affairs.

⁵⁰ Counselor of the Japanese Embassy.

793.003/555

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck) of a Conversation With the Counselor of the Japanese
Embassy (Kato)*

[WASHINGTON,] March 9, 1931.

Mr. Kato called and said he was instructed to bring to the Department a memorandum; that this memorandum dealt with extraterritoriality; that it contained in a somewhat tentative form a statement which the Japanese Government intended its Chargé in China should give to the Chinese Foreign Office; that it contained a proposal, but in very general terms. Mr. Kato then handed Mr. Hornbeck a three-page memorandum hereto attached.⁵¹

Upon perusal, this memorandum is found to be extremely vague. It implies a willingness on the part of the Japanese Government "to cooperate to a rational adjustment compatible with the essential interests of the Japanese and with the actual conditions prevailing in China." It proposes gradual relinquishment "according to a progressive scheme framed with reference to subject matter, geographical area or other considerations." It implies that Japan is willing to give up civil jurisdiction, except in special areas and is willing to discuss, in relation to conditions existing in China, relinquishment at some future time of criminal jurisdiction. The one thing with regard to which it approaches precision is in the proposal that "concurrently with the relinquishment of extraterritoriality and civil matters, Japanese subjects shall be permitted to reside and carry on trades in all parts of the country . . ." It also calls for most-favored nation treatment.

Mr. Kato asked what Mr. Hornbeck thought of this "proposal." Mr. Hornbeck replied that it seemed very similar to what the Japanese had proposed at a much earlier date. Mr. Kato said that it was substantially the same except that it now brought in Japanese willingness to discuss relinquishment of criminal jurisdiction. Mr. Hornbeck asked what it was that moved the Japanese Government to prepare this proposal at this time: Had they received any new communication from the Chinese? Mr. Kato replied that they had not, that there had been Japanese-Chinese discussions in February a year ago and the matter had since stood substantially open, but that the Japanese Government understood that the British and the American Governments were now moving in the matter and the Japanese Government felt that it should move.

Mr. Hornbeck inquired whether Mr. Kato envisaged what might be the Chinese reply to this proposal. Mr. Kato said that he did not,

⁵¹ *Infra.*

and he inquired what Mr. Hornbeck thought might be the reply. Mr. Hornbeck said that he would not be surprised if the Chinese replied that they had heard the substance of these proposals before. He said that the Chinese were for the moment at least taking the position that they must insist on complete relinquishment of extraterritorial rights and could make no concessions.

Mr. Kato said that the Japanese Government had heard that the British were preparing to "relinquish everything." Mr. Hornbeck asked if he might inquire where the Japanese Government had heard that. Mr. Kato said he did not know. Mr. Hornbeck said that we had been told, through diplomatic channels not our own, that there was such a rumor, and that it would be interesting to know whether the source or channel was the same in both cases. Mr. Kato repeated that he did not know whence the Japanese Government had gotten news of this rumor.

Mr. Hornbeck said that we had informed the Chinese of points which we were willing to discuss; that the Chinese had asked us to agree to certain principles which, if agreed to, would leave little if anything concerning which to negotiate; that we had not replied; and that for the moment at least we were taking no new steps; we were engaged in "watchful waiting"; and that if and when we took a new step of any consequence, we would, if possible, inform the Embassy.

(Note: For comment, see separate page.⁵²)

S[TANLEY] K. H[ORNBECK]

793.003/555

*The Japanese Embassy to the Department of State*⁵³

The Japanese Government, constant in their sympathy with the aspiration of China for the removal of existing limitation upon her powers of jurisdiction, are ready to cooperate to a rational adjustment compatible with the essential interests of Japan and with the actual conditions prevailing in China. They now desire to propose the following terms as the bases on which extraterritoriality in China is to be abolished.

2. The Extraterritorial privileges now enjoyed by Japan in China shall be relinquished according to a progressive scheme framed with reference to subject-matter, geographical area or other considerations. In the event of such a progressive scheme being adopted, China shall, *pari passu* with the extent of the progressive relinquishment, take such judicial and administrative measures as will afford sufficient

⁵² Not printed.

⁵³ Handed to the Chief of the Division of Far Eastern Affairs by the Counselor of the Japanese Embassy on March 9, 1931.

safeguards for the security of the lives and property of Japanese subjects. It is understood that the relinquishment of Extraterritoriality being closely correlated with the opening of the interior, Japanese subjects shall be permitted to enjoy, in the interior of China, rights of residence and trade and the exercise of their private rights concurrently with the progressive relinquishment of extraterritorial privileges.

3. For example,

(A) Upon the lapse of a stated period of time after the promulgation and putting into force by China of codes of laws of primary importance, conformable with the modern concepts of jurisprudence, Japanese subjects shall, in the territory of China, with the exception of certain limited areas of special nature, be amenable to Chinese laws and jurisdiction in civil matters. In view of the consequences of still greater importance involved in the relinquishment of extraterritoriality in criminal matters, the time and extent of such relinquishment shall be determined in full consideration of the judicial and other conditions obtaining in China and especially in the administrative aspects of extraterritoriality.

(B) In regard to the laws and regulations applicable to civil or criminal matters, the organization of the judiciary, judicial procedure, etc., China shall take due and efficient measures to safeguard the security of the lives and property of Japanese subjects.

(C) It is understood that, concurrently with the relinquishment of extraterritoriality in civil matters, Japanese subjects shall be permitted to reside and carry on trades in all parts of the country, and it is further understood that Japanese subjects shall on condition of reciprocity be permitted to acquire and enjoy private rights including private rights in immovable property in those regions in which extraterritoriality in both civil and criminal matters shall have been relinquished.

4. With respect to extraterritoriality and all matters related thereto, Japanese subjects shall in no case be subject to any treatment less favorable than that accorded to the subjects or citizens of any other foreign country.

703.003/545 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, March 9, 1931—7 p. m.

92. Legation's 52, February 6 [3], 6 p. m.,⁵⁴ and 101, March 4, 5 p. m.

1. Department has not received Yunnanfu's despatch No. 14, December 30, 1930, to the Legation.⁵⁵ Please forward copy and in your discretion telegraph summary of item on page 3, as Department does

⁵⁴ Not printed.

⁵⁵ Not printed; see telegram No. 131, March 14, 11 a. m., from the Minister in China, p. 754.

not understand why the Consul at Yunnanfu has entered into a discussion with the Chinese authorities of Yunnan in regard to extraterritorial rights when no specific case appears to have arisen which would necessitate such a discussion.

2. If no specific case requiring such discussion had arisen, the Department desires that you issue a circular instruction cautioning all American consular officers in China not to enter into discussions with the Chinese authorities in regard to extraterritorial rights unless specific cases arise which necessitate such action. In this event, consular officers should continue to be guided by the Department's telegrams to the Legation, No. 49, February 8, 1 p. m., 1930,⁵⁶ and No. 92, March 12, noon, 1930.⁵⁷

CARR

793.003/559

Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs

[WASHINGTON,] March 11, 1931.

Mr. C. C. Wu, the Chinese Minister, called on the afternoon of March 11, 1931, and inquired whether the Department was prepared to reply to the statement which he handed to Mr. Castle on February 20, 1931.⁵⁸

Mr. Hornbeck replied that points raised in the Minister's statement created a situation which was a radical departure from the basis on which the negotiations had been proceeding. He pointed out that the negotiations had been commenced and carried on on the understanding that a gradual process of relinquishment of extraterritorial rights was to be evolved which would be satisfactory to both Governments, and that, if the Department acceded to the views of the Chinese Government in regard to the three points raised in the Minister's statement, this would amount to assent to complete and immediate abolition of extraterritorial rights.

Mr. Wu replied that, while this might appear to be the case, it could be argued that the system which the Chinese Government proposed to establish as outlined in its counter-proposals of December 7, 1930, was a plan for the gradual abolition of extraterritorial rights, since this plan provided special sections in the Chinese Courts for the trial of Americans, which was an arrangement that did not exist in the judicial systems of any of the countries where extraterritoriality had never existed.

⁵⁶ Summarized in Green Haywood Hackworth, *Digest of International Law*, vol. II, pp. 503-504.

⁵⁷ *Foreign Relations*, 1930, vol. II, p. 517.

⁵⁸ *Ante*, p. 734.

There followed a discussion of what might be regarded as constituting a plan for "gradual" abolition. Mr. Hornbeck pointed out the difference between proposals drafted with detail such as the Department has prepared—which give a complete picture and which may be subjected to revision and amendment in course of discussion—and proposals such as the Chinese have submitted which provide, when analyzed, merely for abolition of extraterritoriality.

Mr. Wu said he hoped we would give an answer on the points raised in his statement of February 20. Mr. Hornbeck then asked whether there was expected an answer of "yes" or "no" in reply to the three points raised in the statement or if the answer might be made in such a way as to expect a discussion of the points involved. Mr. Wu replied that he felt that the answer should be "yes" or "no", remarking that his Government at Nanking had made a decision in regard to the maximum which it would concede, which made it impossible for him to propose less. Mr. Hornbeck then stated that this confirmed what had been reported to the Department from other sources, and that, in such circumstances, the only reply which the Department felt it could make was that contained in a prepared statement which he would have to give Dr. Wu.⁵⁹

After reading the statement, Dr. Wu, with some evidence of embarrassment, stated that there appeared to be nothing more he could do and that he hoped Minister Johnson and Minister Wang would be able to accomplish more than we had been able to accomplish here. Mr. Hornbeck said that it was our feeling that the Minister had struggled conscientiously with this problem, as had we, but that it seemed that the Minister's instructions were so restrictive as to leave no room for profitable discussion here—for the moment at least—and that we hoped the obstacles could be cleared away by Mr. Wang and Mr. Johnson.

Mr. Wu, on leaving, remarked that probably we would sooner or later have the whole matter thrown back upon us (i. e. himself and the Department) here.

⁵⁹ *Infra*. Statement quoted to the Minister in China in telegram No. 10, March 11, 1931, 6 p. m., which concluded as follows: "Take no action until receipt of your instructions which will follow." (793.003/551)

793.003/532

*The Department of State to the Chinese Legation*⁶⁰

EXTRATERRITORIALITY

Statement to the Chinese Minister

The Department refers to the Statement handed by the Chinese Minister to Mr. Castle, Assistant Secretary of State, on February 20, 1931, in which the Minister states *inter alia* that, before proceeding to negotiate on other points, it seems desirable to have a definite statement of the Department's views on certain points:

The surrender of criminal jurisdiction over American nationals in China in addition to the surrender of civil and police jurisdiction.

The appointment of legal counselors (who shall function without any rights as co-judges), by the Chinese Government without restriction of choice.

The elimination of any reserved areas from the proposed scheme for the relinquishment of extraterritorial rights.

It appears from the statement under reference that the Chinese Government now seeks to place these negotiations on a radically different basis from that upon which they have been proceeding during the past two years. Under these circumstances, in order to save time and to facilitate the efforts of both Governments to bring these negotiations to a successful conclusion, the Department believes that it is desirable at this stage that the American Minister to China discuss with the Minister for Foreign Affairs the issues thus presented, it being the Department's understanding that the Minister for Foreign Affairs is discussing such matters with representatives in China of other extraterritorial powers. The Department is, therefore, instructing the American Minister to China to confer with the Minister for Foreign Affairs, and hopes that, in consequence of such conference, there may be reached an understanding which will contribute toward an early and successful conclusion of a satisfactory agreement.

[WASHINGTON,] March 11, 1931.

793.003/550A

*Memorandum by the Minister in China (Johnson)*⁶¹

NANKING, March 12, 1931.

In the course of conversation today I asked Dr. C. T. Wang, the Minister for Foreign Affairs, whether he thought it would benefit or

⁶⁰ Handed to the Chinese Minister by the Chief of the Division of Far Eastern Affairs on March 11, 1931.

⁶¹ Copy transmitted to the Department by the Minister without covering despatch; received April 28.

facilitate negotiations between the United States and China if negotiations were transferred to China.

Dr. Wang stated that unless the United States was prepared to concede the three points upon which the two countries now held radically differing opinions, he could not see any value in the transferring of negotiations. He said that he would be very glad at all times to discuss questions relating to negotiations with me if such discussions would assist in making clear to the Department of State the attitude of the Chinese Government, but that as far as facilitating the reaching of an agreement was concerned, he did not see how a mere transfer of the negotiations to Nanking at this time would help.

He said he thought we were not so far apart on the subject of co-judges, although China could not accept legal advisors who were authorized to function as judges, nor could she consent to the appointment of such legal advisors from a panel drawn up by The Hague. He said they were quite prepared to appoint legal advisors with the qualifications specified for judges of the permanent court and this phraseology they had used in their draft. He said he thought we had asked for special chambers in too many places, but on the other hand, China was prepared to have them at more places than she had originally indicated. He thought there was reason for having such courts at Foochow and at Tsingtao.

In regard to jurisdiction, the United States was contending that civil jurisdiction be given up first and then criminal jurisdiction but we set no time for the giving up of criminal jurisdiction. We merely left it indefinite. China, on the other hand, felt that both civil and criminal jurisdiction must go at once and together.

In regard to reserved areas, China was even more determined not to consent to what we asked. We asked that Shanghai, Hankow, Tientsin, Canton, Harbin and Mukden be reserved as areas within which Chinese jurisdiction should not enter. This amounted to giving China the shadow and reserving the substance. In the interior of China the only Americans who lived there were doctors, missionaries and a few others who were law abiding people. They never had any troubles of a civil or criminal nature but in the ports, and particularly in Shanghai, Tientsin, Hankow, one found large communities of business people where there was constant litigation at law, where criminal laws were constantly being invoked and these areas we were reserving entirely. He said that such a withdrawal of extraterritorial privileges amounted in fact to a joke and China did not particularly enjoy such a joke.

I stated that I had no desire to hamper in any way the work of my friend, Dr. Wu, that it had merely occurred to me that the transfer of negotiations at this point might in some way facilitate

matters and I wished to ask the question. I had no idea that my Government was contemplating action of this kind.

NELSON TRUSLER JOHNSON

793.003/550.76

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] March 13, 1931.

The British Ambassador called to tell me of Sir Miles Lampson's first conference with Mr. C. T. Wang on the subject of extraterritoriality.

Lampson began by asking whether it would be well to discuss the big questions or to take up matters of detail. Mr. Wang said he would rather discuss the big questions.

Lampson then took up the question of evocation, which he said was of great importance. Mr. Wang refused absolutely to consider it and, without completely giving up the point, Lampson passed on to the question of co-judges. This also was refused by Mr. Wang, but led to a discussion of legal advisers. Mr. Wang said that the Chinese Government would refuse absolutely to be bound by any panel which might be suggested by the Hague Court or by anybody else, but that it probably would be willing to make some kind of satisfactory declaration concerning the rights of legal advisers. There was no agreement reached and no possibility of agreement on either the subject of criminal jurisdiction or that of reserved areas. In the discussion of reserved areas, C. T. Wang said that, to agree, would be "to keep the shell and give the oyster." During the discussion Lampson held strongly to the point that the British, being already in possession "beati possidentes" were in a very strong position to negotiate and this Wang conceded to be the truth. Lampson also, in his talk, said that it was not the desire of the British, in any suggestions they might make, to derogate from the authority of the Chinese courts, but rather to help build up a judicial system which would be free and above suspicion. When it came to the matter of discussing details, it was agreed that this should be taken up between Teichman and H'su. The Ambassador said that Johnson had already informed Lampson that he could count on his moral support.

I asked the Ambassador whether, in using the phrase in his memorandum "international settlement" he had really meant to refer only to that part of Shanghai known technically as the "international settlement." I told him exactly as I did before that we, in discussing Shanghai, always envisaged it as a port and not as an international settlement and that I did not believe that the American

Government any more than his Government want to throw France and Japan, for example, into the discard. He said that if his Government meant only the "international settlement" it was a thought reaching forward into the almost invisible future, that certainly it could be held only as a final resort to save something out of the wreck, that it is certainly not a question which could arise for a very long time. I told him that unfortunately a rumor had somehow got around that the British had this idea in the back of their heads. He said this was extraordinarily unfortunate and that somebody in London must have been talking loosely.

W[ILLIAM] R. C[ASTLE,] JR.

793.003/558 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 14, 1931—11 a. m.

[Received 11:50 a. m.]

131. Department's 92, March 9, 7 p. m.

1. Copies of Yunnanfu's despatch No. 14, December 30, 1930, transmitted in the pouch leaving today.⁶² Page 3 of despatch stated that chief judge and the procurator of the Yunnan High Court frankly admitted they were under instructions from the Ministry of Justice, Nanking, to give no further judicial recognition to the extraterritorial provisions of the Sino-American treaties; that they have been ordered to deal with all mixed cases strictly in accordance with new laws and procedure of the National Government and that Chinese law gives court authority to try Americans on criminal charges. Stevens⁶³ reported he was engaged in compiling report on present conditions and working of judicial machinery of Yunnan Province and that he would submit report⁶⁴ as soon as possible after visiting local courts and prisons and interviewing members of the Chinese legal profession.

2. It appears that Stevens in efforts to obtain information requested by Department in second paragraph of its instruction No. 264, September 26, 1930, to the Legation,⁶⁴ informally discussed matter with Yunnan judicial authorities. It is believed that his informal inquiries may lead to interesting disclosures as to exact nature of instructions which have emanated from Nanking in reference to control to be exercised by Chinese courts throughout China over foreigners having extraterritorial rights.

⁶² Received April 7; not printed.

⁶³ Harry E. Stevens, Consul at Yunnanfu.

⁶⁴ Not printed.

3. Legation is preparing Consular circular in accordance with paragraph 2 of Department's telegram under acknowledgment.

For the Minister:
PERKINS

793.003/550 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, March 14, 1931—4 p. m.

12. For Minister Johnson: Department's 10, March 11, 6 p. m.⁶⁵

(1) On March 7 the British Ambassador handed the Department a third-person note together with a memorandum which contained the "substance of instructions" sent to the British Minister in China.

The British Government in the note expresses its "trust that the policy laid down in these instructions will meet with the agreement of the United States Government" and its hope that you will be instructed in the same sense by this Government. It is indicated by the memorandum's contents that the British Government is ready ultimately to concede practically everything save jurisdiction in the Shanghai International Settlement, on condition that the Chinese give their assent to certain legal safeguards.

(2) It is assumed by the Department that Lampson either will have shown you a text of his instructions or will have acquainted you with their tenor. For this reason the Department is not quoting the text or summarizing the contents of the memorandum in this telegram.

(3) The British memorandum is being carefully studied by the Department. While the Department is not in entire accord with the principles therein laid down or the procedure therein outlined, it would be willing to give up both evocation and co-judges and to yield the rights, first, of civil and, second, of criminal jurisdiction, on the condition that the Chinese are ready at the same time to agree (a) to satisfactory formulas providing specified legal safeguards as to functions and powers of legal advisers, taxation, rights in immovable property, and criminal procedure as to arrest, imprisonment, bail, and trial, and (b) to exemption of certain areas at the China treaty ports of Shanghai, Tientsin, Canton, and Hankow (Shanghai being regarded as the most important). It is the view of the Department that any definite commitments in principle on our part to specified concessions would be highly dangerous and should be avoided unless the Chinese on their part reciprocally and simultaneously make definite

⁶⁵ Not printed; it quoted statement handed to Chinese Minister on March 11, p. 751, and concluded as follows: "Take no action until receipt of your instructions which will follow." (793.003/551)

commitments to specified arrangements. For example, take the history of the resolution which was adopted at the Peking Tariff Conference on November 19, 1926 [1925].⁶⁷ Accordingly, it is felt by the Department that discussion of any concessions which the Chinese propose be made by this Government beyond those proposed in the hitherto prepared American drafts, should be conducted on a "no commitment" and conditional basis and that, whenever there is mention of American concession or concessions, it should be indicated that these may be made only in return for Chinese concessions regarding provisions for which this Government is asking.

In the light of your recent telegrams and of other information from China and of recent conversations with the Chinese Minister here, the Department now doubts that either C. T. Wang or C. C. Wu has discretion relating to the points of co-judges, criminal jurisdiction, and reserved areas, and the Department inclines to the belief that arriving at a noncommitment accord with C. T. Wang would be the procedure most likely to dissolve what amounts to a deadlock. Such accord would comprehend the maximum concessions which we would be prepared to make, along with the concessions acceptable from the Chinese in return, and this accord could be submitted to the ultimate Chinese authorities for the purpose of effecting a reconsideration of the restrictions which (apparently) govern the Ministry for Foreign Affairs.

The Department is not persuaded that the necessity to surrender everything except jurisdiction at Shanghai should be considered at this time as a probable eventuality and believes that, while thinking about what may be the maximum American concessions, there should be kept in mind provisions of such phraseology and scope as are calculated to safeguard general foreign interests, thereby enlisting the support and approval of other powers, particularly of France and Japan. Thus, thought should be given, for instance, to the whole port of Shanghai, taking up the problem of "greater Shanghai" instead of merely the International Settlement.

(4) It is noted by the Department that in the memorandum of the British Government the latter attaches the greatest importance to a variety of specified points. While concurring, the Department notes no inclusion among these points of legal guarantees respecting rights acquired in immovable property, and these should also be made the subject of legal safeguards.

(5) Considering the above and likewise the restrictions apparently placed upon C. C. Wu here by the Chinese Government with reference to what the Minister may discuss, you will be guided by the following

⁶⁷ For text of resolution, see telegram of November 19, 1925, from the American delegation at Peking, *Foreign Relations*, 1925, vol. I, p. 881.

course of action which the Department has decided upon :

In reply to Wu's statement of February 20, the Department on March 11 communicated to him a statement the text of which was telegraphed you in Department's 10, March 11, 6 p. m. From the above you will note that the Department expects you to begin discussions with C. T. Wang in a further effort to bring about a modification of the position taken by him and his Government as to co-judges, criminal jurisdiction, and excluded areas.

(6) A careful study of the Department's instruction No. 374, January 19,⁶⁸ will be of assistance to you. The Department has, after further study and in deference to the British Foreign Office views, revised the draft therein as follows: (a) Article 2 of the January 19 draft has been deleted, and article 2 of the October 28 proposals has been restored; (b) article 6 of the January 19 draft has been deleted and article 6 of the October 28 proposals restored; (c) the text of article 9 has been altered to read:⁶⁹ "The surrender, as provided in this treaty, of the jurisdiction of the courts of the United States of America in China shall not apply within a radius of 10 miles from the present Custom Houses in the treaty ports of Shanghai, Tientsin, Hankow and Canton."; (d) a text for article 13 has been drafted to read:⁶⁹ "Whenever and wherever the United States of America shall have completely surrendered extraterritorial jurisdiction over its nationals in China, the nationals of the United States of America shall then, if they do not already possess such rights under existing treaties, be entitled to reside, travel, trade and own property."

You may find this draft, thus amended, helpful, though it need not be used as a proposal.

Should the principle of legal advisers acting as co-judges be given up, the text of article 2 in the January 19 draft should be found helpful. As to article 6 relating to personal status matters, if the new Chinese Civil Code regarding such matters can be shown to be substantially similar to those found in western European national civil codes, and if the Chinese Government would undertake in personal status cases involving Americans to have these provisions always applied, the Department would be willing to concede complete jurisdiction in these matters to the Chinese courts. The Department would also expect, in such an event, however, that the Chinese Government would grant to the American consular officers the same rights regarding the administration of estates as are accorded usually in most countries to consular officers.

(7) The decision whether you are to proceed alone or simultaneously or jointly with Sir Miles Lampson is left to your discretion.

⁶⁸ Not printed.

⁶⁹ Quotation not paraphrased.

You will confer and cooperate with him, on the basis of association, not of alliance. In your discretion you may take with reference to proposed concessions such initial and intermediary positions as you may find advisable, but you will stop short of any surrender respecting legal safeguards as above outlined or the principle of excluded areas.

(8) At least five advantages are believed to be offered by this course of action: First, this course avoids the hazard inherent in an attempt by us to effect a definite transfer of negotiations during which we might be informed by the Chinese of the deadlock of our negotiations; second, this course enables you, without full powers being issued, to enter into Nanking discussions *quasi* negotiation; third, this course enables you to collaborate closely with Lampson, who seems at this stage to be confronted with the same problem facing us, namely, to persuade the Chinese to relax with reference to their extreme demands; fourth, this course enables this Government to continue to act in cooperation with, though independently of, the British; and, fifth, this course leaves this Government, in case the Nanking efforts fail, in a position still to resume the negotiations in Washington.

(9) You should discuss with Lampson this plan of action in as much detail as you may choose and should give C. T. Wang a copy of the statement handed on March 11 to C. C. Wu here, thereupon proceeding as outlined above.

The Department should be kept fully informed.

STIMSON

793.003/560

The Chinese Legation to the Department of State

MEMORANDUM TO THE DEPARTMENT OF STATE

The Ministry of Foreign Affairs has given careful consideration to the suggestion of the State Department that the American Minister to China should discuss with the Minister for Foreign Affairs certain issues referred to in the Department's Statement handed to the Chinese Minister on March 11, 1931.

The Ministry regrets that it is unable to enter into discussion of the three vital points which were raised in the Chinese Minister's statement to the Department of February 20, 1931, and on which the Ministry hopes the American Government will unreservedly meet its wishes. The transfer of the negotiations at this juncture from Washington to Nanking would not, in the opinion of the Ministry, serve any useful purpose. If and when the points above mentioned have been satisfactorily settled, while there will be no objection to the transfer to Nanking of the discussion of other matters in connection with the subject of extraterritoriality, the Chinese Government nevertheless desires

to see the negotiations which have been held so long in Washington to be continued and brought to an early and successful conclusion there.

[WASHINGTON,] March 14, 1931.

793.003/558 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, March 16, 1931—5 p. m.

103. Your 131, March 14, 11 a. m. In view of Legation's present statement, you may, in your discretion, withhold issuing consular circular or so phrase the circular that it cannot be interpreted as a criticism of Consul Stevens' efforts to prepare a report on the Chinese judiciary in Yunnan Province.

STIMSON

793.003/560 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, March 16, 1931—5 p. m.

14. For Minister Johnson: Department's 10, March 11, 6 p. m., to Nanking.⁷⁰

(1) The Chinese Legation has handed the Department a memorandum dated March 14. The text is as follows:

[Here follows text of memorandum printed on page 758.]

(2) You may inform C. T. Wang. Your instructions (see Department's 12, March 14, 4 p. m., to Nanking) remain unchanged.

(3) When the Department's statement of March 11 has been delivered by you to Dr. Wang, you will please report fully on what transpires.

STIMSON

793.003/550 : Telegram

The Secretary of State to the Ambassador in Great Britain (Davies)

WASHINGTON, March 16, 1931—6 p. m.

71. Your No. 69, March 6, 5 p. m.⁷¹

1. British Ambassador handed Department on March 7 a third person note covering a memorandum containing "substance of instructions sent to Sir Miles Lampson".

⁷⁰ See footnote 65, p. 755.

⁷¹ Not printed.

In the Note, the British Government expresses "trust that the policy laid down in these instructions will meet with the agreement of the United States Government" and expresses hope that this Government will instruct the American Minister in the same sense. The contents of the memorandum indicate that the British Government is prepared to concede ultimately practically everything except the surrender of jurisdiction in the International Settlement at Shanghai, provided Chinese assent to certain legal safeguards.

2. Department, although not in complete accord with the plan outlined in this communication, is gratified to observe that the concessions which the Foreign Office is prepared to make coincide with those which the Department has envisaged as possibly or even probably necessary.

The Foreign Office authorizes Sir M. Lampson to give up evocation as the first step. The Department regards this as advisable.

The Foreign Office believes that, in order to bring negotiations to a successful conclusion, the right of criminal jurisdiction will have to be abandoned. The Department concurs. However, the Department doubts whether assent in principle to relinquishment of criminal jurisdiction will, when given, contribute materially to the possibility of gaining assent of the Chinese to the principle of co-judges. The order in which possible abandonment may be made may be discussed between Lampson and Johnson.

The Foreign Office regards agreement upon certain legal safeguards as vital. The Department concurs, but notes that among the safeguards specified there are not included legal guarantees in regard to the rights acquired in immovable property, which rights the Department believes should also be made the subject of legal safeguards.

The Foreign Office believes that, as to safeguards, detail is of essential importance; that no agreement will be possible unless arrangements are made which will meet the requirements of British public opinion; and that if such requirements are met, it will be possible to proceed liberally. The Department's views, *mutatis mutandis*, are similar.

The Foreign Office expresses, with reasons, the view that it may be advisable ultimately to give up the idea of co-judges. The Department concurs, but, as stated above, suggests that Johnson and Lampson confer as to order of possible abandonment.

The Foreign Office expresses the view that the exclusion of Shanghai is the most important interest at stake "even if the area excluded is limited to the International Settlement only". The Department concurs, but, with regard to Shanghai, feels that, it is desirable to think constantly of "Greater Shanghai" and, for the present at least, of the additional treaty ports of Canton, Hankow and Tientsin. Department

feels that, on this point as on others, in giving thought to what may be our maximum concessions, we should on each point have in mind possible provisions of such scope and phraseology as will be calculated to safeguard foreign interests in general and thus be likely to enlist the approval and support of the other most interested powers.

3. In the light of recent conversations with Wu and of other information, Department now doubts whether the Chinese Foreign Office has discretion in relation to the points of co-judges, criminal jurisdiction and reserved areas. Department regards as highly dangerous, and to be avoided for the present, assent, even in principle, to concession on these points except as simultaneously the Chinese may be found prepared to agree to (1) satisfactory formulas for specified legal safeguards and (2) exemption of certain areas at certain treaty ports, Shanghai of course being the most important. Department is inclined to believe that the procedure most likely to dissolve what approximates a deadlock would be to sketch tentative agreements comprehending concessions which might be made on the one hand in return for concessions which, if offered on the other, would be accepted, which sketches Wang could submit to the ultimate Chinese authorities with a view to effecting reconsideration of the restrictions under which Chinese Foreign Office apparently is working.

4. On March 11, in reply to the Chinese Minister's statement of February 20, the Department handed to the Chinese Minister here a statement, the concluding sentences of which read as follows: "It appears from the statement under reference that the Chinese Government now seeks to place these negotiations on a radically different basis from that upon which they have been proceeding during the past two years. Under these circumstances, in order to save time and to facilitate the efforts of both Governments to bring these negotiations to a successful conclusion, the Department believes that it is desirable at this stage that the American Minister to China discuss with the Minister for Foreign Affairs the issues thus presented, it being the Department's understanding that the Minister for Foreign Affairs is discussing such matters with representatives in China of other extra-territorial powers. The Department is, therefore, instructing the American Minister to China to confer with the Minister for Foreign Affairs, and hopes that, in consequence of such conference, there may be reached an understanding which will contribute toward an early and successful conclusion of a satisfactory agreement."

The Department has instructed the American Minister along the lines of the above. The Department's action does not constitute a definite transfer of the seat of our negotiations, but conversations here remain suspended pending, at least, indications of progress at Nanking. The American Minister is to act in close cooperation with but in-

dependently of the British negotiators. If further steps are taken here, notice will be given.

5. Please inform the British Foreign Office of the above.

STIMSON

793.003/762 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, March 17, 1931—noon.

[Received March 19—1:55 p. m.⁷²]

Department's 12, March 14, 4 p. m., to American Consul General, Nanking.

1. [Paraphrase.] Lampson read me the text of his instructions in accordance with which he entered into formal negotiations on March 8 with Dr. C. T. Wang (see my telegram of March 9, 3 p. m.⁷³). Lampson has since then had two other meetings with Wang when he worked out the text of a possible article covering legal counsellors, omitting the function of a co-judge. This text has now been referred for approval to the British Government. I have been asked by Lampson to treat the texts of this article and others quoted in this telegram confidentially, as he feels if it becomes known to the Chinese Minister that the texts have been communicated to me, Wang might be diverted from the course he is now apparently willing to take. [End paraphrase.]

2. The text of the article mentioned above follows:

"Legal counsellors. To each of the Special Chambers provided in the preceding article there shall be attached foreign legal counsellors who shall be selected and appointed as officials of China by the Chinese Government from among foreign legal experts of high moral character who possess the training, qualifications, and practical experience necessary for appointment to judicial offices. The names, and the amount and conditions of payment of salaries, of the legal counsellors will be communicated by the Chinese Government to the Government of the United Kingdom, and their terms of service will be governed by contracts in accordance with the attached declaration by the Chinese Government. They shall remain in office for a specified term unless dismissed for cause duly shown and shall otherwise receive the consideration and respect due to the dignity of their office. A legal counsellor need not permanently reside at the place in which the Special Chamber of the court to which he is assigned is established and there shall be a flexibility and practicable system of administration of assignments in order to ensure efficiency in the employment of the said legal counsellors.

The legal counsellors shall serve under the Minister of Justice and shall be deputed by the Ministry of Justice for service during the

⁷² Telegram in twenty sections.

⁷³ See footnote 46, p. 744.

hearing of cases involving British subjects as defendants in the Special Chambers provided in the preceding article. It shall be the duty of the legal counsellors in these cases to observe the workings of the Special Chambers. They shall have access to the files of the proceedings and may present their views in writing to the judges who shall give due consideration to the views thus expressed by the legal counsellors. Adequate arrangements will be made for interpretation in order to enable the legal counsellors to follow and observe the proceedings in court. The legal counsellors shall forward to the Ministry of Justice such reports as they may consider necessary and copies of these reports in cases involving British subjects as defendants will immediately be furnished by them to His Britannic Majesty's representative in China, upon request. The legal counsellors shall be authorized to receive directly observations regarding the administration of justice, the execution of judgments or the manner of the application of the law and at the request of any of the interested parties shall bring such observations to the notice of the Minister of Justice with a view to securing the observance of Chinese law. Copies of such observations in cases involving British subjects will likewise immediately be furnished by the legal counsellors to His Britannic Majesty's representative in China upon request. Similarly the legal counsellors shall be authorized to receive any other observations or complaints, including such as may be caused by domiciliary visits, requisitions, or arrests, et cetera, which observations shall be similarly dealt with. Immediately following any domiciliary visits, search, or arrests, directly affecting British subjects in any judicial district, the local authorities shall notify the legal counsellors who shall be most accessible in point of time. In all cases in which British subjects are involved as defendants a foreign legal counsellor shall be present at the hearings of the cases in both the high and districts courts and no judgment shall be handed down until he has made such observations as he may desire to the judges in chambers, and, in the event of the judges failing to consider them, until his observations have been considered by the Ministry of Justice, which is empowered to take such action as the case may require. As far as practicable a legal counsellor of British nationality shall officiate at the trial of cases involving British subjects.

The Special Chambers above referred to shall be established and the legal counsellors shall be appointed and installed in office before the exchange of ratifications of this agreement."

3. [Paraphrase.] I am informed by Lampson that C. T. Wang desires the wording of the opening sentence in this article to be amended in order to provide that one member of the body of legal counsellors be Chinese who would be useful as liaison between the Chinese judiciary and the foreign counsellors. To this article will be attached a declaration covering the terms under which the foreign counsellors will be engaged, substantially as follows: [End paraphrase.]

"Substance of declaration attached to above article. The declaration should specify the details of the contracts under which the legal

counsellors would be employed and employed by the Chinese Government, including a minimum salary of £3,000 a year, to be paid in quarterly installments, the said quarterly installments to be deposited in such bank or banks as the legal counsellor engaged may indicate 6 months ahead of the time when such installment falls due."

[Paraphrase.] Comment: The amount of salary as mentioned in this declaration is only tentative, since C. T. Wang states that salaries of World Court judges at The Hague range from £1,800 to £2,400 sterling a year.

4. The distance which Lampson and Wang have been able to cover, represented above, in their discussion of the chief points at issue includes evocation, co-judges, the reservation of criminal jurisdiction, and reserved areas. Evocation is virtually eliminated from the discussion, while C. T. Wang seems willing to agree to foreign legal counsellors with powers as described in the Department's January 19 proposals, article 2.

5. At the same time that Lampson has been holding discussions with Wang, Teichman and Hsu Mo have been working on the details of legal guarantees and by midnight of March 14 they had drawn up tentative drafts of articles on the following subjects: (a) Lawyers and interpreters; (b) Special Chambers; (c) taxation; (d) arbitration; (e) rights in immovable property and expropriation; (f) immunity of premises; (g) military service, forced loans, etc.; (h) treatment of companies; (i) pending cases; (j) nondiscriminatory treatment; and (k) British protected persons.

The texts of the above have been referred for consideration and approval to the British Government and are quoted, accompanied by comments, in the next paragraphs. [End paraphrase.]

6. "*Lawyers and interpreters.* A British subject appearing before a Chinese court as part [*party?*] with regard to a civil or criminal suit may employ duly qualified British (or other foreign) or Chinese lawyers and interpreters, provided in the case of the lawyers that they are registered as such with the Chinese Government, and such lawyers, if of British (or any other foreign) nationality, shall have the same rights and privileges as Chinese lawyers appearing before the court, and shall be subject to the same laws and regulations governing Chinese lawyers. Hearings shall be in the Chinese language but the court shall take measures to ensure an understanding of the proceedings by all parties to the case and have the assistance of competent interpreters if necessary. British subjects parties to a suit or persons authorized by them shall upon payment of the usual official fees for such copy have the right to obtain certified copies of the evidence and judgment in such suit and arrangements will, if necessary and where possible, be made for supplying on application and on payment of appropriate fees translation of such documents."

[Paraphrase.] Comment: Lampson informs me that Wang at

agreed to retaining them. While the Chinese apparently wish to limit the use by foreigners of lawyers of the nationality of the foreigner concerned, Lampson and I believe the right should be given our nationals to employ any foreign attorney who is recognized by the Chinese Government to practice before Chinese courts. [End paraphrase.]

7. "*Special Chambers.* In the district courts in Harbin, Mukden, Tientsin, Tsingtau, Shanghai, Hankow, Chungking, Canton, Foochow, and Yunnanfu, and in the high courts having appellate jurisdiction over such district courts with the exception of the Supreme Court, Special Chambers shall be established for dealing with cases involving British subjects as defendants. All cases involving British subjects as, wherever resident, except when they may be taken to the Supreme Court on final appeal, or when a British subject concerned may elect, in writing, to submit himself to the jurisdiction of the local modern court having jurisdiction over purely Chinese affairs cases of a similar nature, shall be tried only before these Special Chambers. Any case involving a British subject as defendant, which originates within the ordinary jurisdiction of a court other than one of those mentioned above, will (unless the British subject concerned elects otherwise, as provided above) be transferred for trial to the Special Chamber most accessible to the court within whose jurisdiction the case originates.

Chief judges of Special Chamber. The chief judge of any Special Chambers provided in article (blank) of this treaty shall be the president of the court to which the chamber belongs. Other judges of the Special Chamber as well as its procurators shall be selected from among legal scholars with thorough training and practical experience and with a broad knowledge of general concepts of modern jurisprudence. Their names, ranks, and salaries, will be made known to the public and they will not be removed from office without cause."

[Paraphrase.] Comment: Lampson is adverse to the above paragraph. The article may not appear in the text of the treaty itself but rather in an annex. [End paraphrase.]

8. "*Taxation.* (a) British subjects shall be liable for the payment of such nondiscriminatory Chinese taxation only as is actually paid by all Chinese citizens who are liable therefor and is authorized under the legally enacted and duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China.

(b) British subjects shall be protected against all illegal taxation; and such legal taxation as is properly payable by British subjects shall be enforced against them by no other process than that of action in the competent modern Chinese law courts.

(c) Municipal taxation shall be enforced against British subjects only in accordance with duly authorized municipal regulations sanctioned by the Central or Provincial Governments of China. The proceeds of such municipal taxation shall in general only be expended on relevant purposes within the municipal area in question.

British subjects shall be protected against arbitrary or discriminatory methods of assessing or levying such taxation.

(d) Tax agreements entered into with British subjects in their several capacities as merchants, firms, partnerships or companies, will be duly observed."

[Paraphrase.] Comment: It will be noted by the Department that article 3, sections (e) and (f) of the October 28 draft have been dropped. The Chinese objected to each on the ground that it was derogatory to the dignity of their courts. I feel these provisions to be unnecessary in this article; if we desire them included in the treaty, they might be put either in the preamble or in an exchange of notes or an annex. [End paraphrase.]

9. "*Arbitration.* The Chinese courts will recognize agreements entered into by British subjects between one another or with other foreign nationals or with Chinese citizens for the settlement of civil or commercial controversies by arbitration in accordance with Chinese law and will enforce awards made in pursuance thereof unless the award is contrary to public order or good morals or is vitiated on other grounds recognized by the general principles of law as understood in modern jurisprudence."

[Paraphrase.] Comment: I do not like the phrase "in accordance with Chinese law". It might be interpreted, from its present position in this article, to mean the conduct of arbitration proceedings by the arbitration sections of Chinese Chambers of Commerce "in accordance with Chinese law" governing the arbitration of commercial disputes. Lampson understood the Chinese wished to have arbitrators follow Chinese law when making an award. He and I agree on the need for clearing up this point before we accept the article. [End paraphrase.]

10. "*Rights in immovable property and expropriation.* All rights in immovable property held by a person in China shall be recognized as valid and shall remain undisturbed subject to the exercise of the right of eminent domain by the Chinese Government.

The property of British subjects in China shall not be expropriated, except for reasons of projects insular [*sic*], recognized by the law as such, and only after adequate compensation has been paid. The use of the property of British subjects shall not be denied to them even temporarily except in case of grave emergency for reasons of public interest and in return for fair compensation where such compensation is paid in the case of Chinese citizens.

Exchange of notes: With reference to article (blank) of the treaty signed between us today, I have the honor to request Your Excellency's confirmation of my understanding as follows:

All legal Chinese land transfer fees leviable under regular Chinese legislation as provided in article (blank) of the said treaty, where properly payable under such legislation, will be paid by British subjects on land transactions effected after the date of the signature of the said treaty. But no demands will be made by the Chinese authori-

ties to payment of such land transfer fees on transfers of land to or from British subjects prior to the date of the signature of the said treaty and rights in immovable property held by British subjects shall not be called in question on account of nonpayment of such transfer fees in the past. All rights in immovable property now held by British subjects in China shall not be questioned unless they are invalidated on legal grounds as the result of a decision rendered by a modern Chinese law court, but British subjects will comply with laws of China in regard to such property. The existing rights of British subjects to acquire, hold, and freely dispose of and transfer their rights in immovable property will remain unimpaired”.

[Paraphrase.] Comment: The Department will note that the provision regarding transfer fees, etc., in article 8 of the October 28 draft has been transferred from a treaty article to an exchange of notes on the subject. I do not see any objection to this. As now worded the text seems to give a satisfactory guarantee of the right of disposal of land by owners of title thereof, whether by perpetual lease or otherwise. The text provides that “prior to the date of the signature” of the treaty the Chinese shall demand no transfer fees on land transfers to or from British subjects. I do not see any objection to this phraseology. Objection was made by the Chinese to our phraseology on the ground that, if our indefinite wording were adopted, there might be a flood of transfers between the time of signing and ratifying. Lampson and I interpret the phraseology regarding compensation where the Government takes over property to mean there will be no payment of compensation, since it is believed that in such eventualities the Chinese Government provides no compensation for its own citizens. I am not in a position to judge whether in international procedure this is customary or not. I understand the Chinese contention is that the Government should have the right in times of emergency to seize and to use private property without necessarily giving compensation. [End paraphrase.]

11. “*Immunities of premises, et cetera.* The public buildings and private residences of British subjects in China and their warehouses and business premises and factories, together with all their accessories, articles and properties, shall be respected, and shall not be subjected to any requisition, search or inspection, and the books and correspondence relating to their commercial transactions shall not be examined except as specifically provided for in nondiscriminatory legislation legally enacted and duly promulgated. Except in cases of *flagrante delicto* premises occupied by British subjects shall not be forcibly entered, except upon a warrant formally issued by a modern law court specifically stating the legal grounds on which action is authorized”.

[Paraphrase.] Comment: It should be noted that the Chinese object to the American phraseology requiring that a warrant cite upon its face specifically “by title and section the law under which action

is authorized". To do this, the Chinese contend, would be contrary to Chinese law which requires only a statement in the warrant of "the legal grounds on which action is authorized". An unwillingness of the Chinese Government to invalidate or to amend domestic law by treaty would thus appear to be indicated. I am still of opinion that we should contend for wording substantially like that written into the draft of October 28. Our position in this matter would be strengthened if I were informed that Federal practice at home provides for stipulations of this sort in a warrant for search and arrest. [End paraphrase.]

12. "*Military service, forced loans, et cetera.* British subjects in China shall not be subjected to any form of military service or to any tax or levy imposed as a substitute for military service or to military requisitions or contributions of any kind, nor shall they be compelled to subscribe, directly or indirectly, to any public loan or to any other form of forced levy".

13. "*Treatment of companies.* Subject to reciprocity of treatment for Chinese companies, et cetera, in Great Britain, companies, firms, syndicates, and corporations incorporated or organized in accordance with the laws of His Britannic Majesty and operating in China shall, provided they complied with provisions of Chinese law, be entitled (then continue as in rest of article 11 of British draft)."

[Paraphrase.] Comment: The above, I am informed, represents an agreed version in principle, with alterations of phraseology possible, as stated previously. The idea underlying it is that foreign companies in China, having no right unless registered in accordance with Chinese law, are not juristic. I am not acquainted with United States practice regarding the subject of juristic capacities of foreign firms before American courts, but I am told that practices do differ in the several States. [End paraphrase.]

2. [14^f] "*Pending cases.* Cases terminated in the British courts in China before the coming into force of this treaty shall not be reopened and all final judgments or decisions rendered in such cases shall be executed in any part of China by the Chinese judicial authorities. Cases pending before the British courts in China at the time of the coming into force of this treaty shall continue until judgment is pronounced in the said courts, the jurisdiction of which shall remain in full force for this purpose; and the Chinese authorities undertake to lend any assistance requested by the British authorities in this connection. All such pending cases shall be finally disposed of and wound up within a period of 6 months from the date of the coming into force of this treaty, upon the expiration of which period any cases still pending shall be dismissed or turned over to the Chinese courts for adjudication. It is understood that after the coming into force of the present treaty no actions against British subjects will be entertained by the competent Chinese courts in respect

of acts of [*sic*] which took place prior to that date for which they were not liable according to British law but for which they might be liable according to Chinese law."

[Paraphrase.] Comment: It will be noted by the Department that this text sets a time limit for the disposal of all pending cases and that there has been added a final sentence to prevent retroactive proceedings against foreigners. [End paraphrase.]

15. "*Nondiscriminatory treatment.* Subject to reciprocity of treatment for Chinese citizens in Great Britain, in all matters for which this treaty provides British subjects shall enjoy all exemptions from Chinese jurisdiction which may be enjoyed by the nationals of any other country and shall be subjected to no discriminatory treatment in regard to taxation, judicial, or any other matters for which this treaty provides, as compared with (nationals of China or) the nationals of any other country."

[Paraphrase.] Comment: I understand that C. T. Wang will accept the foregoing provided the bracketed words "nationals of China or" are deleted. Apparently the Chinese Government does not desire to give foreigners national treatment in these matters. [End paraphrase.]

16. "*British protected persons.* Article 16 of the British draft on this subject was acceptable to the Minister for Foreign Affairs".

17. [Paraphrase.] It will be noted from the above that Lampson has succeeded in making considerable progress in the matter of legal guarantees. The British Minister has informed C. T. Wang that the Chinese attitude regarding these matters will go a long way to determine the British attitude respecting the main principles. Lampson expects us to stand upon open ground if and when there is a satisfactory ironing out of these questions of legal guarantees and that the main fight will concern the reservation of jurisdiction in criminal cases and the reserved areas. Confidentially, he does not agree with his Government regarding the giving up of everything save the reservation of jurisdiction in the Shanghai International Settlement, and I think he has informed his Government to this effect. Lampson favors sticking to what we seem to be ready to stand for, and he agrees with me that if jurisdiction cannot be retained within the entire area of Shanghai (meaning greater Shanghai) there would be little value to retain part. May I have the Department's comments regarding the above-quoted texts to be used at my discretion when I discuss procedure with Lampson upon his return on March 23 to Nanking. Teichman will return here on March 18 or 19 to resume his discussions with Hsu Mo of the remaining legal guarantees. I shall try to keep the Department promptly informed. [End paraphrase.]

JOHNSON

793.003/557;

*Memorandum by the Minister in China (Johnson) of a Conversation
With the Chinese Minister for Foreign Affairs (C. T. Wang)*⁷⁴

NANKING, March 19, 1931.

I handed to Dr. C. T. Wang today a memorandum giving the text of a statement handed to Dr. C. C. Wu, the Chinese Minister at Washington, on March 11th, stating that the Government of the United States felt that at this juncture negotiations in regard to extraterritoriality might be facilitated if the American Minister to China were authorized to discuss with the Chinese Minister for Foreign Affairs outstanding issues in connection with the principles involved.

Dr. Wang stated that Dr. Wu had been instructed to inform the Department that the Chinese Government regretted that the Government of the United States was unable to accede to the desires of the Government of China in regard to the three principles of co-judges, criminal jurisdiction and reserved areas, and that the mere transfer of negotiations to Nanking at this stage would have no effect upon the firm position of the Chinese Government in this matter. Dr. Wu had also been instructed to say that it was hoped that Dr. Wu would be able to sign a treaty should one result from the discussions now going on.

I said that there was no thought on the part of the Department to deprive Dr. Wu of this honor, but I felt that the Department had all along been under the impression that the Chinese Government was willing to negotiate on the basis laid down in the exchange of notes of 1929 when the United States Government had indicated its readiness to negotiate on a basis of gradual relinquishment of extraterritorial privileges.⁷⁵

Dr. Wang said that the Chinese Government had never accepted gradual relinquishment as a basis for negotiation, either as to type of case or as to geographic areas.

I said that to the best of my knowledge Dr. Wu had never informed us of this attitude and by his silence and his willingness to negotiate The Department had assumed that this basis was acceptable to the Chinese Government. On this Dr. Wang made no reply but said he was ready to discuss the nature of the various legal guarantees such as duties of counselors, number and location of special chambers, et cetera, but there was no ground for discussion of the main principles

⁷⁴ Copy transmitted to the Department by the Minister in China without covering despatch; received May 12. Substance reported by the Minister in his telegram of March 19, 1931, 7 p. m., from Nanking; received March 19, 4:12 p. m. (793.003/563)

⁷⁵ See telegram No. 254, August 1, 1929, 11 a. m., to the Minister in China, *Foreign Relations*, 1929, vol. II, p. 596.

involved. The Chinese Government was firmly determined to stand for the immediate relinquishment of civil as well as criminal jurisdiction and the abolishment of reserved areas. All that remained was for the United States Government to indicate its position regarding those principles. I told him that I would inform my Government.

NELSON TRUSLER JOHNSON

793.003/566 : Telegram

The Ambassador in Great Britain (Duves) to the Secretary of State

LONDON, March 21, 1931—11 a. m.

[Received March 21—11 a. m.]

81. Contents of Department's 71, March 16, 6 p. m. conveyed to Foreign Office which by informal letter dated March 20 expresses appreciation and states:

"Telegrams received from Lampson indicate that he has made unexpectedly rapid progress in the negotiations. By concentrating on details first and leaving major issues for subsequent negotiation succeeded in inducing the Chinese Government to agree to practically all the safeguards that we want except reserved areas, as to which the Chinese Minister for Foreign Affairs is at present inflexible. As to these areas, we fully realize that the interests of other powers are closely concerned and may not be exactly the same as ours. We therefore entirely share the view of the State Department that the negotiations particularly on this point, conducted by each power should take into consideration the special interests of the other most interested powers. The reference in the instructions to Lampson to the International Settlement of Shanghai was intended to indicate what, having regard to purely British interests, was the final point beyond which no further concession would be made.

Lampson expects that the negotiations will shortly reach a stage when, all other points having been disposed of, he will be in a position to offer to surrender criminal jurisdiction in return for the exclusion of certain areas.

We are telegraphing to Washington in the above sense and instructing the Ambassador to explain the position as above described to the State Department.⁷⁶ I would add that the position reached in our negotiations appears to render unnecessary the adoption of the procedure proposed by the State Department for dissolving a possible deadlock.

With regard to the above matters referred to by the State Department, the position is as follows:

Evocation and co-judges. The first concession which Lampson made was in fact not evocation but co-judges. He had contemplated giving up co-judges last, but seems to have been influenced by the wording of the latest American draft, a copy of which was communicated by Atherton⁷⁷ to Wellesley on January 28th."

⁷⁶ The British Ambassador did so orally on March 23, 1931 (793.003/578).

⁷⁷ Ray Atherton, Counselor of Embassy in Great Britain.

See Department's confidential instruction 640, January 20, 1931.⁷⁸

"Immovable property. We do not anticipate that there will be any serious difficulty in obtaining safeguards as regards rights in immovable property. We have never abandoned the idea of obtaining such guarantees."

DAWES

793.003/562 : Telegram

*The Acting Secretary of State to the Consul General at Nanking
(Peck)*

[Paraphrase] ⁷⁹

WASHINGTON, March 21, 1931—3 p. m.

15. For Minister Johnson: Your March 17, noon, from Nanking.

(1) You may use at your discretion the following comments by the Department on the tentative texts which you quoted in your telegram.

(2) *Legal counsellors.* The Department believes that, in addition to the provision for legal counsellors being deputed by the Ministry of Justice to serve during hearings of cases, it is desirable to have a provision for these counsellors to be deputed by the said Ministry "either on its own initiative or upon request of the parties to such actions."

As to the provision which empowers the Ministry of Justice to take action such as may be required as a result of recommendations made by the legal counsellors, phraseology somewhat as follows is suggested by the Department: "until these observations have been considered by the Ministry of Justice, which the Chinese Government undertakes shall be empowered to take such action as the case may require."

Regarding the Chinese Government's desire for a Chinese legal counsellor as a liaison officer between the Chinese judiciary and the foreign counsellors, the Department does not perceive any objection to the appointment of such a counsellor for that purpose on condition his function is understood to be primarily one of liaison.

For the moment the Department offers no other comment on the text as quoted in your telegram of the provisions regarding legal counsellors. It must be remembered, however, that no understanding has been reached yet with the Chinese as to the three major issues, that is, co-judges, criminal jurisdiction, and excluded areas. As reported, the text contemplates apparently the giving up of the principle of co-judges although no agreement has been obtained from the Chinese to exclude certain areas. Therefore, the Department believes it to be highly desirable for all the provisions regarding legal counsellors to

⁷⁸ Not printed; it enclosed the new draft proposals (see statement handed to the Chinese Minister, February 7, 1931, p. 726).

⁷⁹ Quotations not paraphrased.

be kept upon a strictly "noncommitment" basis for the purpose of avoiding the danger mentioned in paragraph (3) of the Department's 12, March 14, 4 p. m., to Nanking.

(3) *Lawyers and interpreters.* It is agreed by the Department that there should be a provision entitling Americans to employ any foreign attorney, irrespective of nationality, whom the Chinese Government has recognized for practice before the Chinese courts.

(4) *Special Chambers.* For the convenience of the large number of foreigners, including Americans, who reside in Peiping, the Department would like to see this city added to the list of places where Special Chambers are to be established.

The Department would not object to this article being placed in an annex to the treaty rather than in the treaty itself.

(5) *Taxation.* The Department perceives no objection to having the provisions of the October 28 proposals, sections (e) and (f) of article 3 placed in either the preamble or an annex, or an exchange of notes, or the treaty article enumerating the rights of Americans in parts of China where there is a complete surrender of extraterritorial rights. In case of continued objection in this connection by the Chinese, because of such a provision being derogatory to the dignity of their courts, the wording might be altered to require "the Government of China" instead of "the Chinese courts" rendering protection and security to American persons and property in China, this being the customary treaty form of this provision.

(6) *Arbitration.* The Department concurs in the view that the ambiguous phrase "in accordance with Chinese law" should be clarified. It is believed also that the principle of rejecting awards because they are contrary to the general principles of law may be interpreted so broadly as to defeat the purpose of having this clause included in the treaty. The Department suggests as a possible solution to these two questions that the phrase "in accordance with Chinese law" be deleted and that the last part of this article be worded as follows: "unless the award is contrary to public order or good morals or is based on grounds which are contrary to specific provisions of Chinese law".

(7) *Rights in immovable property and expropriation.* As to the expropriation of property, it is the feeling of the Department that agreement is imperative upon some formula providing for compensation, no matter whether Chinese law so provides or not in the case of Chinese citizens. The Department believes that, in view of the complex conditions in China, the plea of "grave emergencies" will occur with irritating frequency if there is no provision for payment of compensation. By reference to the Extraterritoriality Commission's 1926 report, paragraph 106, it will be seen that in 1915 China had a law which provided for compensation, even if this law was not being en-

forced. The Commission, moreover, recommended, *inter alia*, that China promulgate a land expropriation law. After a hasty study of United States treaty relations, the Department believes American citizens to be entitled everywhere to compensation upon the expropriation of their property by foreign governments, whether resulting from laws in force in foreign countries with which the United States has treaties or resulting from specific treaty provision. As to the latter, since 1920 the United States has negotiated with Germany, Estonia, Hungary, Honduras, Latvia, and El Salvador treaties containing the following provision: "their property shall not be taken without due process of law and without payment of just compensation". The provisions of article 14 of the United States Constitution assure Chinese in the United States that they cannot be deprived of property without due process of law, and this includes compensation.

The Department believes, regarding the provision which invalidates rights in immovable property on "legal grounds as a result of a decision rendered by a modern Chinese court", that it would be desirable if possible to add a provision in the following sense: "in reaching their decisions these courts shall take into consideration the treaty provisions and laws, customs and practices in various parts of China which existed at the time when the property rights were acquired".

(8) *Immunities of premises, etc.* Regarding the form of warrants for arrest or search, for Federal practice in the United States, see "the code of laws of the United States of America in force December 6, 1926" (a copy of which is known to be at the Shanghai Consulate General and another is believed to be at Nanking), paragraph 602, page 507, and paragraph 616, page 508.

(9) *Treatment of companies.* Although there prevails in the United States among the States thereof the general rule that by "the law of comity among nations, a corporation created by one sovereign is permitted to make contracts in another and to sue and be sued in its courts", alien corporations must comply with both Federal and state laws, the latter varying in a number of respects, before these corporations have the right to carry on business with the same rights and privileges as domestic corporations. No objection is seen by the Department to the text of this article as telegraphed, except that as a result of the phrase "subject to reciprocity of treatment for Chinese companies", some restrictions respecting matters in which the United States may be unable, under existing or future laws, to extend reciprocal treatment, may be imposed upon American companies which do business in China. See Moore's *Digest*, volume 4, page 19.

(10) *Pending cases.* A provision is noted in the second sentence of the telegraphed text that pending cases "shall continue until judgment is pronounced", while there is a provision in the third sentence

that such cases "shall be finally disposed of and wound up within a period of 6 months". It would seem that these two provisions may be subjected to conflicting interpretations, and the Department feels there should be a deletion of the provision in the third sentence requiring that all pending cases be wound up within a specified time. Unnecessary hardships might be imposed upon litigants by a time limit to wind up pending cases, especially by a short period of 6 months. Should the Chinese Government entertain a fear lest the docket be "padded", it might be given an assurance on this point through agreement for the submission of a list of pending cases at the time jurisdiction is transferred.

(11) *Nondiscriminatory treatment*. For the purpose of the Sino-American negotiations, it is, in the Department's opinion, practically imperative to avoid using in this article the phrase "subject to reciprocity of treatment for China" because it will be impossible, on account of some American state laws, to extend reciprocal treatment regarding rights in immovable property and perhaps regarding other matters, one such having been mentioned above in connection with the rights and privileges of alien juridical persons. Although the British cannot well be asked to eliminate this phrase, if the British Government is in fact prepared to extend reciprocity of treatment in all the matters the proposed treaty covers, the adoption in the Sino-British text of this phrase will make our negotiations more difficult. The phraseology appearing in the American draft of January 19 is preferred by the Department. Should the Chinese insist upon reciprocity of treatment, this point probably will require some very delicate discussion pending agreement upon a satisfactory formula.

CARR

793.003/569a : Telegram

The Acting Secretary of State to the Consul General at Nanking
(Peck)

[Paraphrase]⁸⁰

WASHINGTON, March 24, 1931—3 p. m.

16. For Minister Johnson:

(1) The British Foreign Office has informed the Department, through the British Embassy here and the American Embassy in London, of the progress of the British negotiations. Among other things, they say: "The first concession which Lampson made was in fact not evocation but co-judges. He had contemplated giving up co-judges last, but seems to have been influenced by the wording of the latest

⁸⁰ Quotations not paraphrased.

American draft (i. e., the draft of January 19)." Furthermore: "Lampson expects that the negotiations will shortly reach a stage when, all other points having been disposed of, he will be in a position to offer to surrender criminal jurisdiction in return for the exclusion of certain areas." Likewise: "The position reached in our negotiations appears to render unnecessary the adoption of the procedure proposed by the State Department for dissolving a possible deadlock."

The Department feels that the Foreign Office is optimistic.

(2) On March 23 the Chinese Minister called at the Department and asked for a reply to his March 14 memorandum. (This memorandum was telegraphed you in the Department's 14, March 16, 5 p. m.) Dr. Wu was referred to the March 11 statement by the Department to him and was informed that the Department sees no process by which the three points which the Chinese statement of February 20 raised can be discussed without antecedent and simultaneous discussion of other points; that the Department has felt and still feels it to be desirable, in view of the limitations apparently placed by the Chinese Government upon the Minister's authority to discuss these points, for the subject to be discussed at Nanking by you with the Chinese Minister for Foreign Affairs; and that the Department perceives no reason for Dr. C. T. Wang's not carrying on the discussion with you concurrently with those discussions Wang has with the representatives of other powers.

The Chinese Minister stated that Dr. Wang had laid before the British Minister the same three vital points which had been presented to the Department and that, when Sir Miles Lampson said he was unable to concede these points, an arrangement had been made to begin discussion with Hsu Mo of other points, without committing the Foreign Minister. Wu said Wang could not make any concession as to the vital points.

The Minister was informed that, since the Chinese Foreign Office was discussing other points, the Department's opinion was confirmed that to proceed as suggested by us at Nanking was more practicable for the present than to indulge here in further discussion until such time as the revision of the Minister's instructions would make possible such negotiation in Washington as is apparently proceeding in Nanking. Wu was told the desire of the Department is to reach an agreement which is mutually satisfactory, and the Department has no preference regarding the place to conclude the negotiations and to sign the treaty. He was told also that the Department's view is that matters would be expedited by Dr. Wang's discussing with you just the kind of points he is discussing with the British Minister.

Wu said he would "think the matter over".

Then he inquired whether we would be ready to concede the three vital points in the event a satisfactory agreement on safeguards had been reached. The reply was that this Government would be glad to have any balanced project discussed, but the three vital points could be discussed only concurrently with or following discussion of the other points.

(3) We have the impression that the effort of the Chinese is in the direction of evoking a disclosure of the concessions which the Department may be prepared to make, with no commitment on the part of the Chinese to anything other than what they proposed last December. You will perceive the Department desires (a) to avoid being committed in any one-sided fashion, (b) to give the Chinese no occasion or opportunity to declare the negotiations deadlocked, and (c) to inject no factor which might involve the British negotiations in difficulty.

(4) In the light of the foregoing, you should confer with the Foreign Minister and continue your cooperation with the British Minister.

CARR

793.003/576 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, March 27, 1931—11 a. m.

[Received 11:25 a. m.]

Department's 16, March 24, 3 p. m., to Nanking.

(1) The British Minister returned on March 23 to Nanking and on March 25 resumed negotiations with Dr. C. T. Wang concerning guarantees. At that time Lampson presented redrafts of certain articles previously discussed and also a redraft of the first part of article 1 on the transfer of jurisdiction. Lampson proposed also that by an unpublished, informal exchange of notes regarding the registration of lawyers the possession of diplomas from Chinese law schools or the qualifying through Chinese legal examinations should not be required of British lawyers. On March 26 Teichman conferred further with Hsu Mo as to all of the legal guarantees. Copies of the various discussed articles have been promised me as soon as they have been confirmed. I understand that, among the accomplished things, there has been dropped as of doubtful value the final sentence of the draft on "rights in immovable property and expropriation", namely, "the use of the property of British subjects shall not be denied to them even temporarily". As it stood, this clause seemed to legalize a system of seizing foreign property temporarily with or without compensation.

(2) It seems to me that the best thing I can do for the moment is to refrain from taking any initiative in these matters here so long as the British are apparently making progress. To the British Minister I have given the Department's suggestions and redrafts so that he may make use of them as occasion offers. He is keeping me informed as to developments. I am thus left free to take up matters anew if necessary and to avoid at the same time any complication for the negotiations going on now.

(3) Lampson wishes to find out how much of the legal guarantees can be disposed of before he proceeds to discuss the major and vital questions, criminal jurisdiction and reserved areas. The Minister has indicated to C. T. Wang that the attitude of the British Government on the major issues will be influenced by the Chinese position as to guarantees. Lampson has now been given complete discretion regarding criminal jurisdiction and is prepared, I understand, to throw it into the balance upon reaching satisfactory understandings regarding legal guarantees and in exchange for the reserved areas. Tomorrow I expect again to see Lampson and will then report further texts to the Department.

JOHNSON

793.003/583 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, March 28, 1931—10 a. m.

[Received March 29—3:42 a. m.⁸¹]

Referring to my telegram of March 27, 11 a. m., paragraph No. (3).

1. Following are additional texts tentatively agreed upon by the British Minister and Minister for Foreign Affairs at latest conversation. Comment in confidential code is submitted in later telegram.⁸²

2. *Transfer of jurisdiction.* ["(1) Except (in criminal cases, other than minor offenses indicated below, and) as otherwise provided by the present treaty, British subjects in China shall as from its coming into force be subject to the jurisdiction of the modern Chinese courts of justice (Fa Yuan) and to the duly promulgated laws, ordinances and regulations in China.

(2) As regards rights of appeal and in all other matters of procedure the modern Chinese codes of law and procedure shall be applicable to British subjects. In all legal proceedings British subjects shall enjoy treatment not less favorable than that accorded to Chinese citizens.

⁸¹ Telegram in five sections.

⁸² *Infra.*

(3) Except as provided in paragraph (4) of this article, British subjects shall not be subject to jurisdiction of the police courts nor shall they be subject to jurisdiction of any other tribunals than the modern Chinese courts of justice.

(4) British subjects shall be subject to the jurisdiction of the modern police courts in case of offenses under the police offenses code or under municipal regulations, but in each of such cases the penalty imposed by the court shall not exceed a fine of \$15, or, in the event of such fine not being paid, detention at the rate of 1 day's detention for each dollar of the fine imposed up to a maximum of 15 days."

3. *Declaration.* "With reference to the treaty concluded between us today, I have the honor to declare on behalf of my Government that the Chinese courts will ensure to the persons and property of British subjects due protection in accordance with international law and the general practice of nations."

4. *Lawyers and interpretation [interpreters?].* Additional paragraph: "In all judicial proceedings in which British subjects are summoned to appear, whether as parties to the case or witnesses, and in all court processes directly concerning British subjects, their names will, in order to avoid mistakes and misunderstandings, be added in English to the Chinese text of the summons, order or other court process."

5. *"Lawyers' diplomas interpretation.* Agreed minute of interview between the Minister for Foreign Affairs and His Britannic Majesty's Minister: Sir Miles Lampson, referring to the matter of the registration of British lawyers, inquired whether he was correct in understanding that it was not the intention of the Chinese Government to require that duly qualified British lawyers appearing on behalf of British parties in the Chinese courts should have a knowledge of a Chinese language or possess diplomas of Chinese law schools. Doctor Wang replied that the above understanding was correct."

6. *Legal counselors.* Additional matters. "There shall also be included amongst these legal counselors one legal counselor of Chinese nationality to be similarly selected and appointed from among Chinese legal experts possessing the same training, qualifications and experience.

"In all cases in which British subjects are involved as defendants a foreign legal counselor shall be present at the hearings of the cases in both the high and district courts and judgments shall be reserved until he has made within 3 days after the conclusion of the trial such observations as he may desire to the judges in chambers, and, in the event of the judges failing to give them due consideration, the execution of the judgment will be suspended until the observations of the legal counselor have been considered by the Ministry of Justice,

which will take such action as it deems appropriate in the interest of justice.

The Chinese court of justice referred to in article 1 shall not begin to exercise jurisdiction over British subjects until the Special Chambers referred to in article 2 have been organized and until the legal counselors above mentioned have been appointed and installed in office as provided in this article."

7. *"Declaration attached to the article concerning legal counselors.* Minister of Foreign Affairs to His Britannic Majesty's Minister: With reference to the treaty concluded between us today, I have the honor to declare on behalf of my Government that the legal counsel referred to in article (blank) of the above-mentioned treaty will be engaged and employed by the Chinese Government under contracts specifying in detail the duration and the terms of their service, including in the case of each foreign legal counselor total emoluments of not less than £3,000 (sterling) additional compensation, to be paid in quarterly installments, the said quarterly installments to be deposited in such bank or banks as the legal counselor concerned may indicate 6 months ahead of the time when such installments fall due.

I have also the honor to declare, with reference to the arrangements provided in the article above mentioned, that as far as practicable a legal counselor of British nationality will officiate at the trial of cases involving British subjects."

8. *Taxation.* "(b) British subjects shall be protected against taxation without legal sanction and against irregular or discriminatory methods of assessing or levying taxation; and such legal taxation as is properly payable by British subjects shall be enforced against them by no other process than that of action in the competent modern Chinese courts of justice.

(c) Municipal taxation shall be imposed upon British subjects only in accordance with duly authorized municipal regulations sanctioned by the Central or Provincial Governments in China. The proceeds of such municipal taxation shall in general only be expended on relevant purposes within the municipal area in question.

(d) No methods of assessing liability to taxation shall be employed except those prescribed by the duly promulgated laws, ordinances and regulations of China. In case of disputed assessments, the party concerned shall be entitled to have the amount of his levy determined by the competent modern courts in accordance with Chinese law.

(e) Tax agreements entered into with British subjects in their several capacities as merchants, firms, partnerships or companies, will be duly observed."

9. *Arbitration.* ["(1) The Chinese courts will recognize and if necessary secure performance of agreements entered into at any place

by British subjects between one another or with other foreign nationals or with Chinese citizens for the settlement of civil or commercial controversies by arbitration. The arbitrators selected by the parties in accordance with such agreements may be of any nationality.

(2) The arbitration if held in China shall be conducted in accordance with the procedure prescribed by Chinese law.

(3) The Chinese courts will not entertain any application or claim which forms the subject matter of such an agreement for arbitration, but will enforce awards made in pursuance of such agreements unless the award is contrary to public order or good morals of [or] is vitiated on other grounds recognized by the general principles of law as understood in modern jurisprudence.

(4) The above provisions shall apply *mutatis mutandis* to agreements for arbitration entered into by Chinese citizens and the enforcement of the awards made in pursuance thereof by the British courts in Great Britain.

See also the attached letter: 'With reference to article (blank) of the treaty concluded between us today, I have the honor to confirm Your Excellency's understanding that the Chinese arbitration law of (blank) has no application to arbitration agreements of the kind contemplated in the said article'."

10. *Rights in immovable property.* "Any dispute regarding the amount of compensation to be paid shall be determined by reference to the competent administrative organ or the competent modern court of justice at the option of the British subject concerned in accordance with Chinese law".

11. *Rights in immovable property.* Exchange of notes. "In reaching their decisions in such cases the Chinese courts shall take into consideration the treaty provisions and laws and the customs and practices in various parts of China which existed at the time when the property rights were acquired".

12. *Military service, forced loans, et cetera.* "Subject [to] similar exemptions being enjoyed by Chinese citizen[s] in Great Britain, British subjects in China shall not be subjected to any form of military service or to any tax or levy imposed as a substitute for military service or to military requisitions or contributions of any kind, nor shall they be liable or compelled to subscribe, directly or indirectly, to any public loan or to any other form of forced levy".

13. *Treatment of companies.* "So long as in Great Britain Chinese companies, firms, partnerships or corporations enjoy as regards taxation, the right to carry on business and access to the courts, treatment not less favorable than that accorded to the companies of the most favored foreign country, companies, firms, partnerships and corporations incorporated or organized in accordance with the laws of

His Britannic Majesty and operating in China shall, provided they comply with the provisions of Chinese law relating to the registration of companies, be entitled to all the rights and privileges enjoyed by British subjects under this agreement, including the rights enjoyed in Chinese courts, whether as plaintiffs, complainants or defendants. Such companies, firms, partnerships or corporations and their branches, agencies or representatives shall not be subject to discriminatory treatment, and as regards national, provincial and municipal taxation shall only be taxed in proportion to the amount of capital actually employed respectively in China, in the province or in the municipality, or in respect of the profits and revenues which they have actually earned respectively in China, in the province or in the municipality”.

14. *Nondiscriminatory treatment.* “Subject to reciprocity of treatment for Chinese citizens in Great Britain, British subjects shall enjoy in all matters for which this treatment provides all exemptions from Chinese jurisdiction which may be enjoyed by the nationals of any other country and shall be subjected to no discriminatory treatment in regard to taxation, judicial or any other matters for which this treaty provides, as compared with the nationals of any other country.”

JOHNSON

793.003/580 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, March 28, 1931—4 p. m.

[Received March 29—5:32 a. m.⁸²]

Continuing my March 28, 10 a. m. The following comments concern the quotations therein:

1. *Transfer of jurisdiction.* The British presented this section to the Chinese as new matter, and I understand the Chinese have accepted it with the exception of the words in parentheses in the opening sentence. This section is a redraft by the British Foreign Office of the first part of article 1 of the American October 28 draft. The Chinese exception to the words in parentheses is an indication of their attitude on the subject of the reservation of criminal cases.

2. *The declaration.* This is section (e) of article 3 of the October 28 draft. The Chinese decline to accept the provisions of section (f), article 3, October 28 draft, either in the preamble or in the form of a declaration.

⁸² Telegram in two sections.

3. *Lawyers and interpreters.* This paragraph is new, to be added at the end of the text quoted in my March 17, noon, as paragraph 6. The British Foreign Office suggested it.

4. *Lawyers' diplomas interpretation.* Agreed minute. This will be an unpublished understanding between Lampson and C. T. Wang regarding British lawyers.

5. *Legal counselors.* The sentence which refers to Chinese legal counselors was inserted between sentences 1 and 2 of the text quoted in my March 17, noon, paragraph 2. There has been substituted for the last three sentences of the text quoted in the same telegram, paragraph 2, the two paragraphs commencing "In all cases" and ending with "provided in this article."

6. *Declaration attached to article on legal counselors.* This covers the character of contract[s] and includes a provision for legal counselors to officiate at the trial of cases which involve British subjects.

7. *Taxation.* It will be noted by the Department that paragraphs (b), (c), (d), and (e) are redrafts, which originated in the British Foreign Office, of the text quoted in my March 17, noon, paragraph 8.

8. *Arbitration.* This replaces the text quoted in my March 17, noon, paragraph 9, and was written into the redraft which originated in the British Foreign Office. The Department will take note of paragraph 2 of this text in regard to procedure and of the text of the letter to be attached thereto explaining that the law covered by this paragraph is not the present Chinese arbitration law. The inclusion of this paragraph, I understand, was insisted upon by the Chinese who said there might be a law setting up procedure at some future date. Paragraph 4 of this text, making the entire article reciprocal, should also be noted by the Department. Lampson informs me that the article in general describes a procedure which has long been recognized in Great Britain.

9. *Rights in immovable property.* The Department will note that the sentence regarding the temporary use in case of grave emergency of British property has been dropped. Lampson and I regarded this sentence as dangerous, since it might be interpreted to legalize and to invite temporary occupation upon payment of nominal compensation. At the instance of the British Foreign Office, the quoted sentence has been added to the text quoted in my March 17, noon, paragraph 10.

10. *The exchange of notes regarding rights in immovable property.* The quoted sentence is an amendment suggested by the Department's March 21, 3 p. m., paragraph (7), and has been added to the text of the exchange of notes just before the final sentence (see my March 17, noon, paragraph 10).

11. *Military service, forced loans, etc.* This is a British Foreign Office redraft of the text quoted in my March 17, noon, paragraph 12.

12. *Treatment of companies.* This is a British Foreign Office redraft of the text quoted in my March 17, noon, paragraph 13, and was discussed with and agreed to by the Chinese. I find it an improvement over other texts.

13. *Nondiscriminatory treatment.* The text in my March 17, noon, paragraph 15, has been redrafted. Lampson tells me that his Government is more or less committed to accept reciprocal treatment. In his opinion, we should have no difficulty in this phraseology if read in connection with all the other articles of the proposed agreement, since reciprocity is confined to matters which are provided for in the treaty.

14. These texts have been sent to the British Foreign Office for its comment and approval. The texts are, with the exceptions indicated, I understand, acceptable to the Chinese. It will be noted by the Department that Lampson has not yet touched upon the following articles in the October 28 draft: evocation; arrest, detention and trial; personal status matters; reservation of settlements and concessions; and portions on shipping in article 10 and on rights of residence and trade in article 13. Except for shipping and personal status, all of these are connected with the problems of reservation of criminal jurisdiction and reserved areas. Lampson is expecting comments from the British Foreign Office by March 31.

JOHNSON

793.003/557‡

Memorandum by the Minister in China (Johnson)⁶⁴

NANKING, March 30, 1931.

Sir Miles Lampson, British Minister, called and said to me in strictest confidence that the question of legal guarantees having now been substantially cleared away he had decided that the moment had come when he should seek a personal interview with the Minister for Foreign Affairs for the purpose of finding out just where both governments stood in regard to the vital principles involved. He said that he had therefore seen the Foreign Minister at 8 a. m. this morning. He told the Minister for Foreign Affairs that as the latter was leaving Nanking and he was leaving Nanking also within the next three days he thought it wise that they have a personal conversation and lay their cards on the table so that they could see where both countries

⁶⁴ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported to the Department by the Minister in pars. 1 to 8, inclusive, of telegram dated March 30, 11 a. m., from Nanking, *infra*.

stood. He said that the British people placed a great deal of importance on the question of criminal jurisdiction. They were reluctant to see British nationals placed under the criminal jurisdiction of the Chinese courts. He, himself put more weight on civil jurisdiction where the great mass of British interests and trade would be affected, but unfortunately his Government felt differently on the subject and was firm in its intention that criminal jurisdiction should not be given up. Nevertheless he thought that it might be possible to bring the British Government to a conciliatory point of view in regard to this point, provided the Chinese Government were willing to make concessions in the matter of reserved areas. He was very anxious to know where the Minister for Foreign Affairs stood in this matter.

Dr. Wang stated that the Government's policy in regard to these questions had been laid before the Political Council which had decided that it could not make concessions in regard to co-judges, reservation of criminal jurisdiction or reserved areas.

Sir Miles stated that they discussed this matter at some length and that finally Dr. Wang stated that four areas were too many to be reserved. He thought that something might be possible in regard to Shanghai. Dr. Wang also stated that the Government would object strenuously to a 50 li zone as being too wide or to the mention of the Customs House at Shanghai in such a connection as this might lead others to stipulate for railway zones, et cetera, as being the centers of reserved areas.

British Minister informed Dr. Wang that of course the mere reservation of Shanghai was not good enough insofar as his instructions and the attitude of his Government were concerned; that the reservation of these areas had nothing whatsoever to do with politics, international or domestic. He did not see why Dr. Wang could not persuade his colleagues of this. These places were the points where large numbers of Americans had congregated for purposes of business and residence and no political complications could follow the reservation of these areas from Chinese jurisdiction. Dr. Wang repeated that four areas were too many but that he hoped it might be possible to meet the British Minister at least part way in the matter of Shanghai. Sir Miles stated that the mere reservation of Shanghai was not sufficient to meet the situation. The Foreign Minister replied that this would appear to deadlock the negotiations; that unless the matter was settled by May 5th there would be a great deal of trouble as the people had fixed their minds upon a settlement.

Sir Miles informed me that he told the Minister for Foreign Affairs that if he took that stand the responsibility for deadlocking the discussions must rest squarely with the Chinese as the British Government was ready and willing and anxious to negotiate for a mutually

acceptable understanding on the whole question. He pointed out that the Chinese were rushing the matter in a way not customary among governments. He said he realized that the situation would be complicated but he must realize that foreigners would not be alone in any difficulties that might arise.

Sir Miles told me that he besought Dr. Wang to remember that he himself was without any personal ambition in this matter; that if it could be settled why so much the better, but if not it would make little difference to him. He hoped the Minister for Foreign Affairs would realize that both governments were trying to build a bridge which would safely carry both countries from the present to the new situation and that it was for the Chinese to do its share in the building as the bridge was being built from both sides.

NELSON TRUSLER JOHNSON

793.003/585 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, March 30, 1931—11 a. m.

[Received March 31—7:04 a. m.⁸⁵]

My March 27, 11 a. m., paragraph (3).

[Here follows report of conversation of the British Minister in China with the Chinese Minister for Foreign Affairs based on memorandum printed *supra*.]

(9) The conversation thus ended. Lampson and I believe it indicates that C. T. Wang will try to obtain new instructions likely to bear fruit quickly.

(10) I said to Lampson that it did not seem necessary for me at this particular time to discuss these questions, that so far as we are concerned the discussions were suspended, not deadlocked, that the Chinese knew we were firm regarding these matters, and that if at this time I began any conversations in Nanking this might lead to a postponement of action along the line of his effort at accomplishment, with which I believed my Government to be in agreement. Therefore, I shall await further developments and shall keep the Department informed.

(11) Lampson is keeping the French and Japanese informed regarding the progress made as to legal guarantees. However, I do not think he has discussed other points so frankly with them as with me. I hope, therefore, that the above will be kept entirely confidential by the Department.

JOHNSON

⁸⁵ Telegram in two sections.

793.003/581 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, March 30, 1931—1 p. m.

[Received March 30—5:42 a. m.]

My March 30, 11 a. m., in process of being dispatched. I have just been informed by C. T. Wang that he has summarized his negotiations with Lampson by telegram for C. C. Wu, who has been instructed to press negotiations in Washington.

JOHNSON

793.003/584 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, March 31, 1931—4 p. m.

[Received March 31—7:20 a. m.]

My March 30, 11 a. m. I have just seen Lampson, to whom I gave the information reported in my March 30, 1 p. m. He stated he was leaving on April 2 for Peiping, expecting to be away approximately 10 days to 2 weeks. I assume, therefore, that C. T. Wang has not gone beyond the point reported in my March 30, 11 a. m. Dr. Wang apparently wishes to see if we are disposed to go further than the British before he resumes negotiations with them here.

JOHNSON

793.003/583 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, March 31, 1931—5 p. m.

18. For Minister Johnson: Your March 28, 10 a. m., and March 28, 4 p. m., from Nanking.

(1) *Transfer of jurisdiction.* After the words "as regards rights of appeal and in all other matters of procedure" in paragraph 2 (2), the Department feels it would be desirable that there be added these words, "both administrative and judicial" for the purpose of having a definite provision entitling American citizens to seek redress or relief from arbitrary acts by administrative officials through "administrative proceedings".

In paragraphs (3) and (4) under the same heading, there are reported provisions for British subjects to be subject only to modern courts of justice and police courts. On account of the frequent decla-

rations of martial law in China, it is the belief of the Department that it would be desirable to have in an exchange of notes the above provisions made applicable at all times, even with martial law declared. It was for this reason that the Department inserted the words "at all times" in its draft of January 19.

(2) *Lawyers and interpreters.* Agreed minute. The Department prefers having this made the subject of an exchange of notes.

STIMSON

793.003/5574

Memorandum by the Minister in China (Johnson)⁸⁶

NANKING, April 1, 1931.

In the course of conversation today, Sir Miles Lampson the British Minister, stated that he was concerned somewhat over the question of the term of validity of the treaty on extraterritoriality. He said that the article on this question for which we had stipulated provided for a period of ten years. He said that he and the members of his staff agreed so far as Shanghai was concerned, that the minimum period for which they should contend should be ten years. He asked me what I thought of this. I told him that I agreed; that at one time I had thought that the term of the agreement in so far as it applied to Shanghai, might be made indefinite or at least subject to some separate understanding between ourselves and the Chinese. I recognized that such an arrangement was dangerous as it left the Chinese free to agitate for a settlement of the question as soon as the Treaty was ratified and that doubtless it would be better for us to have a definite period during which Chinese jurisdiction within the Settlement would be excluded in order that interests at Shanghai might prepare for the change.

Sir Miles stated that he had not discussed this question in the course of negotiations up to date but that the matter would have to be approached very soon and he was anxious to get his ideas fixed on the subject before it came up. He added that in the matter of reserved areas we were asking for Hankow, Tientsin, Shanghai and Canton and he had been concerned somewhat as to the order in which these places might be abandoned in case we had to accept a number less than the four asked for.

With reference to Hankow he thought there was no great difficulty although he thought that some formula might be adopted reserving jurisdiction there only so long as jurisdiction was retained by other Powers. He had reference of course to the French and Japanese Concessions.

⁸⁶ Copy transmitted to the Department by the Minister without covering despatch; received May 12. Substance reported by the Minister in his telegram of April 10, 1931, 11 a. m.; received April 11, 7:17 a. m. (793.003/597)

With reference to Tientsin he said that the matter seemed complicated to him for in 1927 his Government had promised to return the British Concession at Tientsin and in fact had proceeded so far in this matter as to have appointed a committee to adjust the matter with the Chinese, and he thought that in any discussion of this question the Chinese would revive the negotiations regarding the British Concession at Tientsin which had now been sleeping for some time.

I stated that I did not see how the question of reservation of jurisdiction was involved in the matter of Concessions, at least in the matter of relinquishing a concession; that if the British gave up their Concession at Tientsin we would all be in a position similar to that at Shanghai, and I thought that criminal jurisdiction might well be reserved in so far as Tientsin was concerned whatever the result of the negotiations.

Sir Miles agreed with me. He then asked me if I did not think we should stick out for the reservation of Tientsin and Shanghai as the most important places of the four named in our proposals and I said I felt that these two places should certainly be reserved, that we had come to look upon Tientsin and Shanghai as being in the nature of cities of refuge to be held for foreign merchants and other foreign residents in China during different transitional periods.

NELSON TRUSLER JOHNSON

793.003/595

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Chinese Minister (C. C. Wu)

[WASHINGTON,] April 8, 1931.

Dr. Wu called and referred to the view which had been expressed by Mr. Hornbeck in the most recent conversations on extraterritoriality that no progress could result from discussing concessions asked by the Chinese in regard to comprehensive major points without first or simultaneously discussing the question of legal safeguards. Dr. Wu said that he was now in position to submit a new draft ⁸⁷ in which the question of safeguards was fully taken care of. He said that this draft took full account of the points which have been under discussion between the British Minister and Mr. Hsu Mo of the Chinese Foreign Office. He said that he hoped that the Department would find this draft satisfactory.

Mr. Hornbeck said that we would be happy to examine the draft promptly.

S. K. HORNBECK

⁸⁷ Not printed.

793.003/694

Memorandum by Mr. Ransford S. Miller of the Division of Far Eastern Affairs

[WASHINGTON,] April 10, 1931.

The British Ambassador called upon the Secretary and Mr. Castle⁸⁸ today and gave orally the substance of an instruction which he had received from his Government relating to the measures which might be taken in dealing with the Chinese Government in case that Government should make unilateral denunciation of the treaties.

The Ambassador stated that his Government believed that, should the Chinese Government denounce the treaties as a unilateral act, their action would not be in the nature of a face-saving gesture such as was their Mandate of December 28, 1929 (declaring extraterritoriality abolished from January 1, 1930),⁸⁹ but would create a serious situation for the foreign government that would have to be faced.

As to means of meeting this situation, there had been suggested: (See Mr. Castle's memorandum of February 12, 1931.⁹⁰)

First, resort to force by seizing customs houses.

The British Government believed that the use of force for the protection of foreign interests, which were widely scattered throughout China, would not only be impracticable but would not have the support of public opinion at home. Moreover, it was suggested that such a course would be incompatible with the Kellogg Pact.⁹¹

At this point, the Secretary suggested that, while the protection of foreign interests throughout China might be impracticable, and had not been considered, the protection of foreign interests in the foreign concessions was a different and much simpler matter.

As the second and third means that had been suggested, the Ambassador mentioned: (2) the threat of the withdrawal of friendship and good will, and (3) the withdrawal of financial assistance for reconstruction purposes. The British Government did not feel that either of the above courses would be effective in influencing the action of the Chinese Government; and, on the other hand, the Chinese were always prepared to respond to such measures with their familiar boycott.

The Secretary remarked that he had not noted any keen interest on the part of either British or American financiers to make loans to

⁸⁸ William R. Castle, Jr., Under Secretary of State since April 1, 1931.

⁸⁹ See telegram of December 28, 1929, from the Consul at Nanking, *Foreign Relations*, 1929, vol. II, p. 666.

⁹⁰ Memorandum, dated February 13, of a conversation with the British Ambassador on February 12; not printed.

⁹¹ Treaty for the renunciation of war, signed at Paris, August 27, 1928, *Foreign Relations*, 1928, vol. I, p. 153.

China nor, on the other hand, any inclination on the part of the Chinese Government to make use of the Consortium.⁹²

The Ambassador continued that, in the opinion of his Government, the real criterion of the situation was not whether the Chinese laws and administration of justice were satisfactory but whether the Chinese Government had acquired sufficient strength and stability to feel that they were able to denounce the treaties. When that time came, the British Government thought the wisest course would be to reach an agreement quickly and save as much as possible of foreign interests.

The Secretary asked the Ambassador what his Government would do at such a juncture concerning their Judge in China. Would they withdraw him or have him remain? The Ambassador replied that he had not considered this point nor the question of the withdrawal of any British forces in China.

It was agreed that the prospect that the National Convention would be postponed until July and the fact that the Chinese Minister here had recently presented a revised Chinese draft on extraterritoriality for discussion appeared to relieve the situation for the present.

793.003/557‡

*Memorandum by the Minister in China (Johnson)*⁹³

NANKING, April 13, 1931.

I went to see the Minister for Foreign Affairs today and in the course of conversation he asked me what the American attitude on extraterritorial negotiations was. I said that the American Government had been sincerely anxious to reach an understanding in regard to this matter which would be satisfactory to both governments. I said that as far back as the original statement of Mr. Secretary Kellogg on this subject in January, 1927,⁹⁴ we had maintained our desire to settle this question on the basis of the gradual relinquishment of extraterritorial privileges. I said I thought there could be no question of our sincerity of purpose in this matter and that we were still ready to meet the Chinese provided that the terms of such agreement as might be signed would be on such a basis.

Dr. Wang stated that he had never assented to such a basis of negotiation, that as far back as the days of Dr. Schurman⁹⁵ he had advocated

⁹² For text of consortium agreement of October 15, 1920, see *ibid.*, 1920, vol. I, p. 576.

⁹³ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in telegram of April 18, 1931, 4 p. m.; received April 14, 7:15 a. m. (793.003/602).

⁹⁴ See telegram No. 28, January 25, 1927, 8 p. m., to the Chargé in China, *Foreign Relations*, 1927, vol. II, p. 350.

⁹⁵ Jacob Gould Schurman, Minister in China, 1921-25.

a complete and final abandonment of extraterritoriality. He compared this question to a surgical operation on a patient suffering from appendicitis saying that of course the patient would be hurt but that it would be better when everything was over. I said that modern surgery provided an anaesthetic so that operations were painless. I said that this was exactly what the United States was aiming at in its negotiations when it proposed that they should be based on a process of gradual relinquishment and that to this end my Government had proposed that in any agreement that might result certain areas should be reserved from Chinese jurisdiction; that criminal jurisdiction should not be given up at once and that the legal counselors should sit with the judges in the special courts provided for the trial of civil cases involving the rights of American citizens.

I said it seemed to me that there could be no doubt of the existence of a very deep and real feeling of friendship in the United States for China but that during recent years the minds of thinking Americans were filled with apprehension as to the future and as to the intentions of the Chinese. I said that little or nothing had ever been said by the Chinese in regard to what they were doing in preparation for the time when they would take over jurisdiction of the persons and property of American citizens, that all that we heard were public statements in the nature of threats. I said that there was a constant undercurrent coming principally from the Chinese themselves of an intimation that unless the foreign powers yielded completely and entirely to the wishes of the Chinese Government the situation that American merchants and others residing and carrying on their business in China would be one of danger, in other words American citizens would be penalized for the attitude of their Government. I said that this atmosphere of hostility and unfriendliness was not a good atmosphere for negotiations and that it was undermining good feeling in the United States toward China.

The Minister for Foreign Affairs said that he thought that Americans were too much influenced by British propaganda, that the American Chamber of Commerce in Shanghai was notoriously susceptible to propaganda originating in the British Chamber of Commerce. I stated that I felt there was little to this, that thinking Americans knew what value to place upon British statements regarding conditions in China, that this feeling came from statements made directly by Chinese to Americans, both officials and private citizens. (Note: I had in mind Dr. Wang's own public statements and statements made in private conversation by Chinese to American citizens.) I said that all of this was going back home to responsible business men all over the country and to senators and congressmen and that it was having

its effect on the attitude of these men toward China and the Chinese. I said that the treatment accorded to Americans had also had its effect; that the outrageous treatment of Americans in Nanking in 1927⁹⁶ had not been without its effect upon thinking opinion in America. I said that it was regrettable that the Chinese Government was not attempting by word or deed to allay this feeling of apprehension and inspire Americans with a feeling of confidence as to the future.

Dr. Wang stated that there was no reason for such apprehension; that he felt sure Americans would be able to carry on their activities without difficulty. The conversation was interrupted here as both of us had engagements.

NELSON TRUSLER JOHNSON

793.003/597 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, April 15, 1931—5 p.m.

23. For Minister Johnson: Your April 10, 11 a.m., from Nanking.⁹⁷

(1) For the sake of giving both foreigners and Chinese a period of freedom from agitation regarding the extraterritorial question, and an opportunity for them to devote attention to other matters of importance, the Department believes the term of validity should be 10 years. It is believed that we have a strong argument to ask for such a term of validity, because it now appears that the Chinese will get in the new treaty almost everything they are seeking concerning the abolition of extraterritoriality.

(2) As to the relative importance of Shanghai, Tientsin, Hankow, and Canton as reserved areas, the Department sees their importance in the above order, with Shanghai the most important, Canton the least. The views of the Department, therefore, are in accord on this question with your remarks to the British Minister.

STIMSON

⁹⁶ See *Foreign Relations*, 1927, vol. II, pp. 146 ff.

⁹⁷ See footnote 86, p. 788.

793.003/608a : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, April 17, 1931—6 p. m.

25. For Minister Johnson: Department's 19, April 9, 2 p. m., to the Consul General at Nanking.⁹⁸

(1) The Chief of the Division of Far Eastern Affairs will be absent from the Department until April 23, as he is proceeding to Portal, North Dakota, to meet the King of Siam. During Hornbeck's absence, the Department is arranging for Joseph E. Jacobs to discuss with the Chinese Legation the wording of the 12 articles of the extra-territoriality draft handed by C. C. Wu on April 8 to the Department. These articles for the most part appear substantially acceptable, provided that additional articles can be agreed upon later to cover matters not therein provided for. Thus the Department hopes an accord may be reached with Wu regarding the legal safeguards which were discussed last month at Nanking between the British and Chinese negotiators, thereby bringing the negotiations here abreast of the point which the Sino-British negotiations have already reached.

(2) When Hornbeck returns, the Department will, should the circumstances warrant, start discussing with the Chinese Minister the major issues involved and hopes thereafter to press the American negotiations vigorously forward either here or in Nanking, as required by the circumstances.

(3) The Department desires you to give Sir Miles Lampson all possible and proper practical aid and support when he renews conversations at Nanking with Dr. C. T. Wang regarding the remaining vital issues. You may confidentially inform Lampson of the Department's willingness to give support in the defense of the position which the British Government may take in refusing to enter into an agreement conceding to China jurisdiction at Shanghai and/or the other ports which have been under consideration. If you feel at any time that discussion with C. T. Wang of any of the vital issues will be helpful toward successfully concluding our mutual negotiations, the Department wishes you to do this. It is the Department's hope that treaties identical or similar in their provisions may be concluded between China and Great Britain and between China and the United States.

(4) Please inform the Department as to present indications regarding the opening or the postponement of the Chinese National

⁹⁸ Not printed; it discussed Mr. Hornbeck's conversation with the Chinese Minister on April 8 (p. 789) and the revised Chinese draft agreement submitted by Mr. Wu (793.003/596).

People's Convention. The Department wishes to be kept fully informed as to the British-Chinese negotiations and will be glad to have suggestions or comments.

STIMSON

793.003/5574

*Memorandum by the Minister in China (Johnson)*⁹⁹

NANKING, April 18, 1931.

I called upon Sir Miles Lampson, the British Minister, today and he told me that he had received instructions from London covering new amendments which were being incorporated in the texts already agreed upon between himself and Wang. He said that he had received word that early in the month the British Foreign Minister had handed to the Chinese Minister in London an *Aide-Mémoire* outlining conditions under which British Government was prepared to relinquish its extra-territorial rights in which the British Foreign Minister had stated almost in so many words that British Government was prepared to give up criminal jurisdiction provided the four areas of Shanghai, Tientsin, Hankow and Canton were excluded from the new treaty. British Minister stated that in view of this fact he had felt justified in authorizing Mr. Teichman in the discussions that he was having with Mr. Hsu Mo to take up without commitment the question of an article covering arrests, imprisonment, detention and bail. He promised to give me the new texts as soon as they were available.

NELSON TRUSLER JOINSON

793.003/609 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, April 19, 1931—2 p. m.

[Received 3:30 p. m.]

The Department's number 25, April 17, 6 p. m. to the American Consul [General] at Nanking.

1. British Minister conferred with Wang yesterday afternoon and as a result thereof has communicated following amendments which he has introduced by agreement with Wang into the previously prepared texts.

2. My March 17, noon, paragraph number 2, legal counselors. Sentence beginning "Similarly the legal counselors shall be authorized" changed to read "Similarly the legal counselors shall be authorized

⁹⁹ Copy transmitted to the Department by the Minister without covering despatch; received June 11.

to receive any other observations or complaints, including such as may be caused by domiciliary visits, expropriations, requisitions, or arrests, et cetera, which observations shall be similarly dealt with". Also my March 28, 10 a. m., paragraph 6, section between "in both the high and district courts" and "will be suspended until the observations" changed to read "and judgment shall be reserved until he has made, within 3 days after the conclusion of the trial, such observations in chambers as he may desire to the judges, and, in the event of the judges' failing to give them due consideration, the execution of the judgment".

3. My March 28, 10 a. m., paragraph 13, treatment of companies, changed to read:

"Companies, firms, partnerships and corporations incorporated or organized in accordance with the laws of His Britannic Majesty and operating in China shall, provided they comply with the provisions of Chinese law relating to the registration of companies, be entitled to all the rights and privileges enjoyed by British subjects under this agreement, including the rights enjoyed in Chinese courts, whether as plaintiffs, complainants or defendants. Such companies, firms, partnerships or corporations and their branches, agencies or representatives, shall not be subject to discriminatory treatment, and as regards national, provincial and municipal taxation shall only be taxed in proportion to the amount of capital actually employed respectively in China, in the province or in the municipality, or in respect of the profits and revenues which they have actually earned, respectively, in China, in the province or in the municipality. Reciprocally Chinese companies, firms, partnerships or corporations shall enjoy in the United Kingdom, as regards municipal [*taxation?*], the right to carry on business and access to the courts, treatment not less favorable than that enjoyed by companies, firms, partnerships or corporations of the most favored foreign country."

4. My March 28, 10 a. m., paragraph 2, transfer of jurisdiction. Second sentence of second paragraph changed to read "In all legal proceedings and in all matters relating to the administration of justice by the courts British subjects shall enjoy treatment not less favorable than that accorded to Chinese citizens".

5. My March 28, 10 a. m., paragraph 14, nondiscriminatory treatment changed to read "British subjects shall enjoy in all matters for which this treaty provides all exemptions from Chinese jurisdiction which may be enjoyed by nationals of any other country and shall be subjected to no discriminatory treatment in regard to municipal, judicial or any other matters for which this treaty provides, as compared with the nationals of any other country. Reciprocally Chinese citizens shall enjoy in the United Kingdom in respect of above matters treatment not less favorable than that enjoyed by subjects or citizens of the most favored foreign country."

6. My March 17, noon, paragraph 10, rights in immovable property and expropriation. First paragraph unaltered. First sentence, second paragraph, unaltered. Second sentence of second paragraph changed and made a separate paragraph. This new paragraph and succeeding paragraph are under consideration by British Foreign Office. Paragraph quoted in paragraph 10 of my March 28, 10 a. m. unaltered. Following new paragraph added:

"Where such cases are brought before the modern courts of justice the provisions of articles (Special Chambers) and (legal counselors) of the present treaty covering the hearings of cases in which British subjects are involved as defendants will apply."

7. My March 28, 10 a. m., paragraph 9, arbitration. Paragraph (1) changed to read:

"The Chinese courts will recognize, and if necessary secure performance of, agreements wherever entered into by British subjects between one another or with other foreign nationals or with Chinese citizens for the settlement of civil or commercial controversies by arbitration. The arbitrators selected by the parties in accordance with such agreements may be of any nationality."

Paragraph (2) unchanged. Paragraph (3) first portion changed to read:

"The Chinese courts will not entertain any application or claim the subject matter of which falls within the scope of such an agreement for arbitration."

Paragraph (4) has been dropped. Letter now reads:

"With reference to article (blank) of the treaty concluded between us today, I have the honor to confirm Your Excellency's understanding that the Chinese mediation law of January 20, 1930, has no application to arbitration agreements of the kind contemplated in the said article."

JOHNSON

793.003/610: Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, April 19, 1931—4 p. m.
[Received April 20—10:10 p. m.¹]

The Department's 25, April 17, 6 p. m. to the American Consul [General] at Nanking and my April 19, 2 p. m.

1. The following draft articles covering military service, arrests and shipping have been worked out *ad referendum* between British Minister and Dr. Wang neither side being committed to their acceptance.

¹ Telegram in two sections.

2. "*Military service, forced loans, et cetera.* British subjects in China shall not be subject to any form of military service or to any tax or levy imposed as a substitute for military service or the military requisitions or contributions of any kind, nor shall they be liable or compelled to subscribe, directly or indirectly to any public loan or to any other form of forced levy. Reciprocally Chinese citizens shall enjoy in the United Kingdom similar exemptions in respect of all the above matters."

3. "*Arrest, imprisonment, detention, bail, et cetera.* [(1)] Subparagraph (2): Except in cases of *flagrante delicto* British subjects may not be arrested, detained or imprisoned except upon an order formally issued by a modern court of justice specifically stating the legal grounds on which and the offense for which action is authorized. They shall within 24 hours after arrest, exclusive of legal holidays, be brought before the nearest modern court of justice competent to deal with the case for hearing. If there is no competent modern court which can be reached in this space of time, any British subject thus arrested will be brought before the nearest competent modern court with the least possible delay.

(2) Any British subject arrested or otherwise detained shall be permitted to communicate immediately with the nearest British Consular officer, and he is to be afforded all possible facilities to that end. British Consular officers or their representatives shall be permitted to visit any British subject under detention at all reasonable times.

(3) British subjects under detention or sentence of imprisonment will only be detained or imprisoned in modern detention houses or modern prisons or in other premises suitable for their detention or imprisonment.

(4) British subjects serving sentences of imprisonment may be visited by British Consular officers or their representatives at all reasonable times [subject to the prison regulations]. (Note. Words in brackets are under consideration. British want it.)

(5) If any British subject charged with offense the maximum penalty for which does not exceed imprisonment for 6 months makes application before sentence is given for the imposition of a fine instead of imprisonment, the Chinese court will grant such application. In each of such cases the fine imposed will not exceed a maximum of \$1,000. In like manner if any British subject charged with any offense punishable under the Chinese criminal code by imprisonment not exceeding 1 year or fine makes application before sentence is given for the imposition of a fine instead of imprisonment, the Chinese court will grant such application. In each of such cases the fine imposed will not exceed a maximum of \$3,000.

(6) Except in the case of crimes punishable by death or imprisonment for life, immediate release on bail will on application be granted to any British subject arrested or detained, unless the court has good reason to believe that the accused may flee from justice after release. The amount of bail will be reasonably proportionate to the offense alleged. Such facilities for release on bail will be granted to appellants until the sentence of the final Appellate Court is given.

(7) British subjects shall not be subject to imprisonment for debt. If, however, it is shown that a debtor is taking action which will render execution on his goods in China impossible, or if execution cannot be safeguarded by any other means, he may be detained in the manner provided for such cases by Chinese law, in which case the provisions of paragraphs 2 and 3 of this article provides [*sic*].

(8) Except in such cases as must under the relevant Chinese law be heard *in camera*, all hearings of cases involving British subjects will be open to the public and all persons interested in the hearings may be present as public spectators. (Note. The wording of the first part of this sentence is still under consideration)".

4. "*Shipping*. British commercial vessels in Chinese ports or territorial waters will comply with such nondiscriminatory and legally enacted and duly promulgated Chinese regulations as are applicable to all vessels. They will not be subject to any form of commandeering or requisition, nor will they be compelled to carry Chinese troops or Chinese military supplies. Such vessels will not be inspected, searched, boarded, or subjected to any kind of restraint by Chinese armed military authority except in the case of special emergency and only after due notification to and by arrangement with the captain of the vessel or the officer in charge. They may not be boarded by Chinese police nor may any person be arrested on board any such vessel except upon a warrant formally issued by a modern court of justice specifically stating the legal grounds on which action is authorized. In the absence of such a warrant, Chinese police may only board the vessel in case of special emergency and only after due notification to and by arrangement with the captain of the vessel or the officer in charge. In general the treatment accorded to British commercial vessels shall be in conformity with that accorded under recognized international practice by maritime nations to vessels of other countries in their ports or territorial waters. The present authority of the Chinese Maritime Customs with respect to British commercial vessels, including authority to search such vessels for the prevention of fraud or smuggling, shall remain unimpaired".

793.003/611 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, April 20, 1931—11 a. m.

[Received April 21—6 a. m.²]

(1) My April 19, 2 p. m., and April 19, 4 p. m. Regarding the amendments and the new drafts which I communicated therein, I have the following comments to make.

(2) *Transfer of jurisdiction.* In this section, second sentence of paragraph (2), the amendment is self-explanatory and appears to me to improve the text.

(3) *Legal counselors.* The first amendment is merely an addition of "expropriations" to the list of causes which are subject to the jurisdiction of legal counselors. The second amendment places the phrase "in chambers" after the word "observation[s]". This was done at the British Foreign Office's suggestion, in view of the usage of this term in British court practice.

(4) *Arrest, imprisonment, detention, bail, etc.* All of this is new matter and is predicated, as the Department will note, upon the relinquishment of criminal cases. Please see, in this connection, my March 30, 11 a. m., paragraph (1).³ Lampson has informed me that the British Foreign Secretary has handed to the Chinese Minister in Great Britain an *aide-mémoire* which outlines the conditions under which the British Government would give up extraterritorial rights. This states virtually that the British Government would be ready to yield jurisdiction in criminal cases if the Chinese Government will concede the reservation of the Shanghai, Tientsin, Hankow, and Canton areas from the jurisdiction of Chinese courts. Lampson felt justified, under these circumstances, in taking up this article with C. T. Wang. The draft referred to London without commitment on Lampson's part is the result of these discussions. In this draft the 5th paragraph contains new matter in regard to payment of a fine in lieu of imprisonment.

(5) *Arbitration.* The change in paragraph (1), it will be noted by the Department, makes the agreement apply to arbitration agreements entered into anywhere. While the amendment to paragraph (3) is an improvement, the Department will surely note that as the text of this article stands at present all reference to reciprocal treatment has been dropped. The letter attached in explanation of section 2 of this

² Telegram in two sections.

³ Par. (1) not printed; text based on first two paragraphs of the Minister's memorandum of March 30, p. 784.

article specifically states the Chinese law which is excluded from this article's provisions.

(6) *Rights in immovable property.* The Department will observe that as it now stands this article retains the paragraphs in regard to the temporary occupation of the property of British subjects if adequately compensated. See in this connection my March 28, 4 p. m., paragraph (9). Lampson tells me that the British Foreign Office is undecided as to this point and is inclined still to believe it should be retained as part of the text. Lampson and I hold the same views as reported in paragraph (9) of my March 28, 4 p. m. A new paragraph extends to this kind of complaint the provisions of articles on Special Chambers and legal counsellors.

(7) *Military service, forced loans, etc.* The Department will note that the reciprocal provision has been placed at the end of the paragraph.

(8) *Companies.* To me the new wording of this paragraph seems to be an improvement over the old, especially in regard to the reciprocal provision, which is on a most-favored-nation basis.

(9) *Nondiscriminatory treatment.* The Department will note this paragraph has been made reciprocal, with reciprocity on a most-favored-nation basis.

(10) *Shipping.* Until the recent conversations the Chinese have been averse to discussing at all paragraph on shipping. This draft resulted from the last discussion Lampson had and does not represent the British Foreign Office's views. The text appears acceptable to me, though I am not certain the British Government will accept it.

(11) Lampson informs me that he has agreed tentatively to delete the second sentence of the paragraph on legal counselors (see my March 28, 10 a. m., paragraph 6, and March 28, 4 p. m., paragraph (5)) and to place it in an attached declaration. Deletion of the second paragraph of this declaration is, I am also informed, being considered (see my March 28, 10 a. m., paragraph 7), in which case an alternative assurance would replace it in the form of an agreed minute that one legal counselor at least will be British. The Chinese, I understand, already are preparing regulations to employ legal counselors and in fact have made a list naming the men they intend approaching with an offer of employment as such. Lampson and I have not been able to find out how many legal counselors the Chinese propose to employ, though the British Minister has heard a report of their intention to employ 5. This number appears to us to be inadequate for the 10 Special Chambers in the agreement. However, this is all rumor. There is the question whether or not assurances should be obtained from the Chinese that they will employ British and/or American

nationals as legal counselors. In the text as it now stands there is nothing to give any such assurances. The Chinese evidently desire the deletion of the provision which requires the British legal counselor to be present at the trial of cases in which British subjects are involved. In discussing with Lampson the importance of this provision, I pointed out in general that, assuming an American legal counselor were not available at the time a case involving an American should come on for trial, it would be regrettable if the case had to be put off until such a counselor should become available. I expressed the view that it would be better for the case to proceed with the presence of a legal counselor of some other nationality than to have no legal counselor at all or delay.

(12) Lampson discussed the reserved areas with C. T. Wang, but found the latter unwilling to make any concessions or to go beyond what he did in the conversation I reported in my March 30, 11 a. m. The offer (see paragraph 3⁴ of this telegram) was renewed by Dr. Wang, but Lampson said this was unsatisfactory, and he insisted upon the exclusion of all four areas. He gave Wang a copy of the British *aide-mémoire*, handed to the Chinese Minister in London, to support his position. Lampson is uncertain about the next step. There remains to be mentioned the question of the term of the agreement.

JOHNSON

793.003/557‡

*Memorandum by the Minister in China (Johnson)*⁵

NANKING, April 21, 1931.

On his own initiative this afternoon Dr. Frank Lee, Vice Minister for Foreign Affairs, raised the question of extraterritoriality. He asked me how the negotiations were progressing and referred to the fact that I had seen the Minister for Foreign Affairs yesterday. I said that my conversation with Dr. Wang had been about quite another matter but that so far as I knew the negotiations at Washington were proceeding satisfactorily. I said that the negotiations involved a discussion of legal guarantees. Dr. Lee asked me whether it was true as he had heard that the American terms were the same as the British. He said that the British negotiations contained a demand that the four ports of Shanghai, Tientsin, Hankow and Canton be excluded from Chinese jurisdiction, and that practically everything had been settled except this question and the question of criminal jurisdiction.

⁴ Par. (3) not printed; text based on third paragraph of the Minister's memorandum of March 30, p. 784.

⁵ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported to the Department by the Minister in par. 1 of telegram of April 21, 1931, 6 p. m., *infra*.

I said that the American terms were the same as the British, that we had asked for the exclusion of the four ports in question in order that a transition time might be afforded for American interests in those places to adjust themselves to the new conditions about to be imposed.

Dr. Lee stated that he knew that Dr. C. T. Wang had informed Sir Miles in all seriousness that he could not take to the Government any proposal for the exclusion of all four areas from Chinese jurisdiction but that he was prepared to put before the Government a proposal for the exclusion of Shanghai and that he thought that something might be accomplished in regard to this.

He said that Dr. Wang had his back to the wall and that the fifth of May would have to see something accomplished; that if Dr. Wang could not present signed treaties of a satisfactory character by that time he would have to resign.

I told Dr. Lee that insofar as Americans were concerned they were very much worried as to the future; that all they heard from the Chinese side in connection with what was being done in preparation for the relinquishment of extraterritorial rights were threats as to what would happen if the foreign powers did not yield to Chinese desires in the matter of extraterritoriality.

Dr. Lee stated that he did not believe there would be any hostile action such as boycotts, et cetera, that if treaties were not signed the Chinese Government would either on May 5th or the day before act unilaterally by denouncing the extraterritorial provisions of the treaty and setting up the necessary judicial machinery for handling foreign cases.

Dr. Lee asked me whether the United States would be prepared to go as far as the British and I said I was sure that we would; that it was my hope that the two nations might sign identical treaties on the same day. Dr. Lee expressed himself as being very gratified to hear that, although he said that it had been his hope that we would lead the way and sign first. He said that the French Minister had informed Dr. Wang that France would follow Great Britain, that France was already negotiating to put the Mixed Court in the French Concession on the same footing as the court in the International Settlement. He expressed the belief that if Great Britain, the United States and France signed agreements then Japan could not hold out. Dr. Lee once more emphasized the fact that Dr. Wang had his back to the wall and that something would have to be accomplished before 5th May.

NELSON TRUSLER JOHNSON

793.003/614 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, April 21, 1931—6 p. m.

[Received April 22—11:40 a. m.⁶]

My March 30, 11 a. m., and April 20, 11 a. m., paragraph (12).

[Here follows report of a conversation with the Vice Minister for Foreign Affairs based on memorandum of April 21, 1931, printed *supra*.]

(2) As to French policy, the French Minister is, I believe, very liberal. M. Wilden, I understand, has been urging the Government at Paris to follow British and American policy. He has been troubled, I know, as to the status of the French Concession in Hankow. Wilden has told me that the Japanese Government is urging the French to remain firm; and that the Japanese are prepared to use all force necessary to protect their own Hankow Concession. Wilden has expressed anxiety lest the French Government yield to pressure from Japan.

(3) The Japanese do not seem to be in any hurry regarding negotiations. Their Chargé, Shigemitsu, who has been called to Tokyo for consultation, expects to be back about May 1.

(4) The Department has been kept fully informed of the British negotiations and has been sent the complete texts as they were worked out. In my view, if we are able to get an agreement such as has been advanced so far, with a provision to exclude from the scope of the agreement the city of Greater Shanghai for 10 years at least, this should satisfy us. The Department, in its 20, April 13, 5 p. m., to the Consul General at Nanking,⁷ asked me for comment on the statement by C. T. Wang on April 10. Other than to say I believe he made this statement in all seriousness, I am at a loss as to what comment to make. I do not have any reason to believe that unilateral action will not be taken by the Chinese Government, as Wang foretold, if the present negotiations fail to result in something tending toward abandonment of extraterritorial rights by the powers. It is said that we can afford to stand pat and permit the Chinese to denounce the treaties, for they would not risk taking steps in actual violation of treaty terms. However, all the Chinese need do is to wait until the British and American treaties are up for revision, respectively, in 1933 and 1934, when they can declare them annulled and decline to negotiate regarding extraterritoriality. We at least appear at the present time to be in a position to obtain their signature to an agreement regarding the question pro-

⁶ Telegram in two sections.⁷ Not printed.

viding certain legal guarantees to our citizens. After 1934 the chances of effecting such an agreement seem to be small indeed. The Foreign Office, I think, is counting on this. The statement has been made that we should hesitate at making an agreement with the Nanking Government, for it likely will be short lived. At present the only serious opposition to this Government seems to be communistic, which, if successful, would not promise the survival of the existing treaties or the making of new and satisfactory treaties concerning the matter. A consideration of policy favoring the signing at this juncture of a treaty is the probability that such action would reinforce the Nanking Government, thus tending to stave off its downfall and the substitution therefor of another which would in all likelihood be far more inimical to our cultural and commercial interests in China.

JOHNSON

793.003/5574

Memorandum by the Minister in China (Johnson)^s

NANKING, April 22, 1931.

Dr. Frank Lee, Vice Minister for Foreign Affairs, called upon me this afternoon and stated that he had reported our conversation of yesterday to Dr. Wang who had expressed himself as being gratified to learn that we were prepared to go as far as the British in the matter of extraterritoriality. He said that this morning they had appeared before the Commission on Foreign Relations at which Dr. C. T. Wang, Dr. Wang Chung-hui, Dr. H. H. Kung, Sun Fo and Chen Li-fu (the latter secretary general to the Central Committee of the Kuomintang) had been present. Dr. Lee referred to Mr. Chen as the Stalin of China.

Dr. Wang made his report to the Commission on the present state of extraterritorial negotiations and stated that the negotiations now hinged upon the insistence of the British on the exclusion of the four ports, Shanghai, Tientsin, Hankow and Canton. He said that in the discussion that followed the members of the Committee took the stand that insofar as Hankow was concerned the British had relinquished their concession, while the Americans had no concession there; that at Tientsin the British had promised to give up their concession, while the Americans had no concession. They pointed out also that at Canton during the great seamen's strike the British promised to give up their concession on Shameen but had been deterred by the fact that the French had refused. Therefore, argued they, there could be no reason for a demand on the part of the British or ourselves that these three places be exempt from the scope of the agreement. In

^s Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported to the Department by the Minister in par. 1 of his telegram of April 23, 1931, 9 a. m., from Nanking, *infra*.

regard to Shanghai they could perceive some reason in the request for its exclusion and they were prepared to consider the question of that exclusion for a limited period of time.

I said that I wanted to make it very clear that the existence or non-existence of concessions had nothing to do, so far as we were concerned, with the question of reserving these areas from the scope of the agreement. What we had in mind was the fact that the largest number of American business and other interests were congregated at these places and it was on this account and because we believed that these large and active interests should be given time to adjust themselves to the new conditions about to be imposed on them that we were asking the exclusion of these areas from the scope of the agreement.

Dr. Lee said that the members of the Committee could not, however, dismiss the idea that the two matters were related and Dr. Wang had been loath to press the matter for fear of precipitating a deadlock. Dr. Lee stated that Dr. Wang Chung-hui had expressed himself as being hopeful that the special chambers would be functioning within six months and that prominent and reputable lawyers in several countries had already been approached with a view to serving as legal counsellors. He said they expected to engage six such counsellors, one of them to be Chinese, and that the Chinese Minister in Washington had instructions to approach a well known American lawyer with an offer of one of the places. Dr. Lee said that Dr. Wang was instructed to report further to the Committee next Friday regarding the progress of negotiations.

NELSON TRUSLER JOHNSON

793.003/616: Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, April 23, 1931—9 a. m.

[Received 9:50 a. m.]

My April 21, 6 p. m.

[Here follows report of a conversation with the Vice Minister for Foreign Affairs based on memorandum of April 22, 1931, printed *supra*.]

(2) The draft of article 9 as suggested in the Department's 12, March 14, 4 p. m., to the Consul General at Nanking,⁹ seems to Lampson and me to be an excellent substitute for the former draft of this

⁹ See par. (6) (c), p. 757.

article, the wording of which may well have given the Chinese the notion that we were excluding the concessions.

(3) Lampson and Wang Chung-hui the other day had a conversation during which the question of the reserved areas came up for discussion. Dr. Wang was adamant in opposition to the exclusion of all four of the ports, but he intimated that regarding Shanghai something might be done for a limited period. He also brought up the point that the existence of foreign concessions at Hankow, Tientsin, and Canton was an argument against their exclusion from the scope of the agreement. Lampson told him that the existence of British Concessions at any of these places had nothing to do with the British position and that the British offer still stood concerning them. Lampson told Dr. Wang Chung-hui that the British Government's instructions were to insist upon the exclusion for a period of 10 years of the four ports. I am told by Lampson that he believes the Chinese will yield in the cases of Shanghai and Tientsin.

JOHNSON

793.003/618 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, April 23, 1931—4 p. m.

[Received April 23—2:20 p. m.]

1. British Minister has just given me following information showing the number of the articles in the draft treaty so far discussed as agreed upon with Hsu Mo.

2. Article 1—Transfer of jurisdiction (agreed), article 2—Special Chambers (agreed), article 3—Legal Counselors (agreed), article 4—Lawyers and Interpreters (agreed), article 5—Arrests, et cetera, article 6—Taxation (agreed), article 7—Arbitration (agreed), article 8—Rights in immovable property (agreed), article 9—Immunity of premises, et cetera (agreed), article 10—Military requisitions and forced loans (agreed), article 11—Shipping, article 12—Companies (agreed), article 13—Pending cases (agreed).

One more to be numbered: Nondiscriminatory treatment (agreed), British protected persons (agreed).

Here will follow the articles not yet dealt with, namely, evocation, rights of residence and trade, personal status, excluded areas, publication of codes, continuance of existing treaties, authoritative text, duration and ratification.

Then follow: Declaration regarding the Chinese courts (agreed), declaration regarding the judges of the Special Chambers (agreed), declaration regarding legal counselors, exchange of notes regarding immovable property (agreed), letter regarding arbitration law

(agreed), agreed minute regarding immunity of courts from extenuating interference, legal counselor of British nationality and lawyers.

3. At the suggestion of the British Foreign Office the long article about legal counselors is being cut up into eight separate paragraphs beginning "to each, et cetera"; "judicial authorities, et cetera"; "a legal counselor need not, et cetera"; "the legal counselor shall serve, et cetera"; "the legal counselor shall be authorized, et cetera"; "similarly, et cetera"; "in all cases, et cetera"; "the Chinese courts, et cetera".

4. The precise form of articles 8 and 10 has not yet been settled. The British Foreign Office still considering temporary occupation in the former and reciprocity in the latter. But substance agreed upon.

5. Everything not marked "agreed" is still without commitment.

JOHNSON

793.003/5573

Memorandum by the Minister in China (Johnson) ¹⁰

NANKING, April 23, 1931.

Dr. Frank Lee, Vice Minister for Foreign Affairs, called upon me this afternoon. He stated that he had reported the substance of our conversation of April 21st to Dr. C. T. Wang, Minister for Foreign Affairs, who had expressed himself as being much gratified to learn that I hoped that the British and American governments might simultaneously sign identical treaties dealing with extraterritoriality. Dr. Lee stated that Dr. C. T. Wang was very optimistic as to the outcome of negotiations and that he had asked him to come to me to inquire what the wishes of the United States Government were; did the United States wish to sign a treaty in Washington or here in Nanking? I said that we were quite indifferent I was sure as to where we signed, that we had only been anxious not to do anything to offend Dr. C. C. Wu. Dr. Lee stated that Dr. Wang's optimism was such that he believed that a treaty would be signed within a very few days and that he, therefore, thought that I should make inquiry of the Department of State and if necessary obtain authorization to sign so that the treaty could be completed here in Nanking simultaneously between China and the United States and Great Britain. I told Dr. Lee that I would make inquiry and that I would inform him of the views of my Government.

NELSON TRUSLER JOHNSON

¹⁰ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in his telegram of April 23, 1931, 5 p. m., from Nanking; received April 23, 8:50 a. m. (793.003/615)

793.003/621 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, April 24, 1931—noon.
[Received April 24—9:25 a. m.]

Norwegian Minister yesterday effected an exchange of notes with Minister for Foreign Affairs,¹¹ whereby Norway agrees to give up extraterritorial rights on most-favored-nation basis if and when powers participating in Washington Conference on Pacific affairs relinquish such rights. I understand the Netherlands is negotiating for a similar exchange.¹²

JOHNSON

793. 003/618 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, April 25, 1931—noon.

27. For Minister Johnson: Your April 23, 9 a. m.; April 23, 4 p. m.; and April 23, 5 p. m.,¹³ all from Nanking.

(1) While previously and at present prepared to let the British lead in the extraterritoriality negotiations, the Department is not yet willing to go so far as even to discuss the inclusion of the Shanghai area in the new treaty's scope of application. It is the feeling of the Department that Tientsin's exclusion should also be insisted upon and that a strong effort should be made to exclude Hankow and Canton. Further, for the reasons given in the Department's 23, April 15, 5 p. m., to Nanking, it is not yet ready to consider less than 10 years for the period of validity.

(2) The Department has been and still is willing to meet the Chinese Government's wishes regarding the place for signature of the new treaty. However, in view of the issuance by the Chinese Government to Minister C. C. Wu of full powers presented to the Department in 1928¹⁴ and of the position which the Chinese Government and Minister here recently took when the Department intimated its wish for transfer of the negotiations to Nanking (reference the Department's 12, March 14, 4 p. m., and 14, March 16, 5 p. m., to Nanking, and your March 19, 7 p. m., from Nanking¹⁵), it is the Department's feeling that

¹¹ League of Nations Treaty Series, vol. cxxix, p. 9.

¹² This exchange was effected also on April 23, 1931 (793.003/624).

¹³ Latter not printed; see footnote 10, p. 808.

¹⁴ See instruction No. 1026, October 29, 1928, to the Minister in China, *Foreign Relations*, 1928, vol. II, p. 433.

¹⁵ Latter not printed; see footnote 74, p. 770.

if and when action is taken to issue full powers to you, this should be predicated upon the Department's receiving a formal request, communicated through Minister Wu, from the Chinese Minister for Foreign Affairs, rather than a mere oral suggestion to you, as your April 23, 5 p. m., reported.

(3) The Department surmises that the Foreign Minister is trying to precipitate final action by either Great Britain or the United States, or by both, by stressing the date of May 5 and by intimating to each one that the other is about to sign. While continuing to do everything possible to expedite the successful termination of the negotiations, the Department is of opinion that, although it should be possible to reach a complete accord soon, yet, after all issues and the substance of the agreement have been settled, it will be necessary carefully to scrutinize the text. This will require time. As the American and British Governments are both making sincere efforts in meeting Chinese wishes regarding the questions involved, the Department deprecates the Chinese Government's efforts to rush matters in a way which is, as the British Minister is quoted in your March 30, 11 a. m., paragraph 8,¹⁶ as saying, "not customary among governments".

(4) Joseph E. Jacobs and Ken-Shen Weigh, Chinese Legation Secretary, have reached a tentative accord regarding the 12 articles of the April 8 Chinese draft;¹⁷ this subject will be discussed in the next few days with Minister Wu. The text of their accord is in substance the same as the Chinese-British accord which was reported in your March 17, noon, and March 28, 10 a. m., with amendments in your April 19, 2 p. m., and April 19, 4 p. m., though there are a number of changes in wording. It is the Department's hope to be able soon to telegraph to you the tentative texts of these articles, along with tentative texts of other articles on remaining subjects which the Department believes should be a part of the new treaty. The matters which your April 23, 4 p. m., reported will be taken into full account.

(5) Lampson should be informed of the foregoing, and you may, in your discretion and insofar as seems advisable, inform Dr. C. T. Wang.

STIMSON

¹⁶ Par. (8) not printed; text based on last two paragraphs of Minister's memorandum of March 30, p. 784.

¹⁷ Not printed.

793.003/618 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, April 25, 1931—4 p. m.

106. (1) The Department today telegraphed to Minister Johnson at Nanking in part as follows:

[Here follows text of paragraphs (1), (3), (4), and (5) of telegram No. 27, April 25, 1931, noon, to Nanking, printed *supra*.]

(2) The references in the third paragraph quoted above concern reports on the progress of the Sino-British draft. In our negotiations we are trying as far as possible to parallel the Chinese-British accords.

In a telegram of April 20, 11 a. m., from Nanking, Minister Johnson reported that he had been informed by Sir Miles Lampson that the British Foreign Secretary had handed the Chinese Minister in Great Britain an *aide-mémoire* which disclosed the British Government's readiness to concede jurisdiction over criminal cases, and the new American draft is being prepared on the basis of relinquishing criminal jurisdiction.

(3) The British Foreign Office should be informed of the substance of the above.

STIMSON

793.003/557‡

*Memorandum by the Minister in China (Johnson)*¹⁸

NANKING, April 27, 1931.

In the course of conversation today with Dr. C. T. Wang, Minister for Foreign Affairs, I referred to a conversation that I had had with Dr. Frank Lee, Vice Minister for Foreign Affairs, on April 23 in the course of which Dr. Lee had intimated that as I had expressed a hope that Great Britain and the United States might sign simultaneously identic agreements in regard to extraterritoriality and as Dr. Wang appeared to be optimistic that an agreement might shortly be reached, I might care to suggest to my Government the advisability of issuing full powers to me to sign. I said that I had telegraphed this suggestion to the Department of State and I had now received a reply to the effect that the Department had been and was still willing to meet the wishes of the Chinese Government in regard to the place where the new treaty should be signed but that in view of the Chinese Government's issuance to Minister Wu of full powers presented in

¹⁸ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in pars. (2) and (3) of his telegram of April 27, 1931, 4 p. m., *infra*.

Washington in 1928 and in view of the attitude taken by the Chinese Government and Minister Wu recently when the American Government intimated its desire to transfer negotiations to Nanking, the Department felt that action in issuing full powers to me should be predicated upon a formal request by the Minister for Foreign Affairs in China to the Department of State through Minister Wu.

Dr. Wang stated that he had asked Frank Lee to make the suggestion to me when he had heard that the American Government hoped that it and the British Government would be able to sign identic agreements on the same day. He said that for his part he would have preferred that Dr. Wu sign the agreement as Dr. Wu had worked very hard in the matter. I stated that my preferences followed the same line, that I had no personal ambitions in the matter. Dr. Wang stated that he would telegraph Dr. Wu and keep him completely informed of the progress made in the discussions with the British Minister and that he would tell Dr. Wu that if it was expedient to do so he should make formal request of the Department of State to issue full powers to me.

I informed Dr. Wang that while the Department was continuing to do all that it could to expedite the successful conclusion of the negotiations it felt that although it should be possible soon to reach a complete accord, yet it would be necessary after agreement had been reached on all issues and on the substance of the agreement to give the text careful scrutiny. I said that the Department expected to take such time as might be necessary to scrutinize texts with a view to preventing as far as possible sources of misunderstanding and future friction.

NELSON TRUSLER JOHNSON

793.003/626 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, April 27, 1931—4 p. m.

[Received April 27—9:30 a. m.]

Department's 27, April 25, noon, to the Consul General at Nanking.

(1) The contents I today communicated to Lampson who remarked that the American stand coincides with his attitude on the reservation of the four port areas and on the 10-year term.

[Here follows report of a conversation with the Minister for Foreign Affairs based on memorandum of April 27, 1931, printed *supra*.]

(4) Teichman and Hsu Mo have had a further discussion regarding the agreed texts, and I am promised copies soon. Teichman has

preliminarily discussed the article on personal status matters and also has discussed the article with reference to the right of residence and trade. He finds the Chinese not willing to agree to open up the country. The Chinese attitude in this regard will, we surmise, be conditional upon the attitude of powers which hold concessions and leased areas.

(5) Lampson and I believe we will find the Chinese in a less negotiable frame of mind following May 5. Lampson has informed his Government accordingly and with this idea in mind intends to press matters here.

JOHNSON

793.003/676

*Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs*¹⁹

[WASHINGTON,] April 27, 1931.

Minister C. C. Wu, accompanied by Mr. Ken-Shen Weigh, Third Secretary of the Chinese Legation, called this morning by appointment. Mr. Hornbeck handed to Minister Wu a new draft in regard to the extraterritorial rights of the United States in China,²⁰ each page of which was marked "Tentative and Without Commitment" with the explanation that this draft was composed as follows:

(1) The twelve Articles found in the Chinese draft of April 8, 1931,²¹ appeared in substantially the same form as revised by Mr. Weigh and Mr. Jacobs, with certain changes made necessary by the giving up of criminal jurisdiction and by a renumbering of the Articles to conform to the tentative draft which is in process of construction at Nanking.

(2) There are eight additional Articles, as follows:

- a. Article V: Arrests, Imprisonment, Detention and Bail;
- b. Article XI: Shipping;
- c. Article XIV: Rights of Residence and Trade;
- d. Article XV: Personal Status Matters;
- e. Article XVII: Definition of Expressions, etc.;
- f. Article XVIII: Excluded Areas;
- g. Article XIX: Provisions of Existing Treaties;
- h. Article XX: Duration and Ratification.

(3) The points to be incorporated in an exchange of Notes are now embodied in one Note in the following order:

- 1. Protection of Courts;
- 2. Personnel of the Special Chambers;

¹⁹ The substance of this conversation was reported to the Minister in China in telegram No. 28, April 27, 1931, 6 p. m. (793.003/626).

²⁰ *Infra*.

²¹ Not printed.

3. Legal Counselors;
4. Lawyers and Interpreters;
5. Arbitration;
6. Rights in Immovable Property;
7. Publication of Codes.

Mr. Hornbeck pointed out that this draft conceded the surrender of criminal jurisdiction but provided for the exclusion of four areas. Mr. Hornbeck further stated that, while it might be possible to reach an accord in regard to the substance of this draft before May 5, he was afraid that it would be impossible to agree upon the final text before that date as it would be necessary to have the Department's Solicitors scrutinize the final text carefully. Minister Wu agreed with Dr. Hornbeck that there should be a careful scrutiny of the final text but remarked that it might be possible to initial a draft for substance.

Minister Wu inquired whether it was our understanding that the Chinese Government would assume jurisdiction over American citizens gradually as the Special Chambers were established and the Legal Counselors were installed or whether this jurisdiction could not be assumed until all of the Special Chambers had been established and Legal Counselors attached thereto. There followed some discussion on this point with the result that it was decided that there was no objection to either plan provided, whichever were adopted, the Treaty should be so worded as to admit of no ambiguity.

With regard to the Article of the draft on the "Rights of Residence and Trade", Minister Wu and Mr. Weigh both remarked that the inclusion of this clause would lay the way open for the colonization of Manchuria by the Japanese.

Minister Wu then inquired how long we intended that the areas named in the draft should be excluded from the scope of the Treaty and was informed that the period of exclusion was intended to be not less than the period of the duration of the Treaty. Minister Wu then remarked that he thought the radius of ten miles would exclude too large an area and might prejudice the long-standing dispute as to the limits of the treaty ports.

Minister Wu then inquired how far our draft paralleled the substance of the Sino-British drafts which had been prepared at Nanking as he desired to save the trouble and expense of telegraphing the whole text. Mr. Jacobs then informed Minister Wu that the twelve Articles which he and Mr. Weigh had discussed and, in addition, Articles V and XI were substantially the same as the Sino-British draft, as well as all the subjects dealt with in the exchange of Notes except the one on "Publication of Codes."

Dr. Hornbeck then stated that he would like to have Minister Wu study this draft and that he would be prepared to see him again on Wednesday.

793.003/5574

*The Department of State to the Chinese Legation*²²

(Tentative and without commitment)

ARTICLE I: TRANSFER OF JURISDICTION

Except as modified by the provisions of this Treaty, nationals of the United States of America shall in China be entitled to the protection, and shall be subject to the jurisdiction, of the Chinese courts, but they shall, under all circumstances, be amenable only to the jurisdiction of the Chinese Modern Courts of Justice (Fa Yuan) and to the duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China.

In all legal and administrative proceedings from their inception through final appeal and execution and in all matters relating to the administration of justice by the courts, nationals of the United States of America shall enjoy treatment not less favorable than that accorded to nationals of China, and reciprocally, nationals of China shall enjoy in the United States of America similar treatment.

In cases of offenses under the Police Offenses Code or under Municipal Regulations, nationals of the United States of America shall in China be subject to the jurisdiction of the Police Courts, but in such cases the penalty imposed by the court shall not exceed a fine of fifteen dollars, or, in the event of such fine not being paid, detention at the rate of one day's detention for each dollar of the fine imposed up to a maximum of fifteen days.

ARTICLE II: SPECIAL CHAMBERS

A Special Chamber shall be established in each of the District Courts (Ti Fang Fa Yuan) in Harbin, Shenyang (Mukden), Tientsin, Shanghai, Hankow, Chungking, Canton, Kunming (Yunnanfu), Tsingtao and Foochow and in each of the High Courts (Kao Teng Fa Yuan) or Branch High Courts (Kao Teng Fen Fa Yuan) having appellate jurisdiction respectively over such courts.

All cases involving nationals of the United States of America as defendants or accused shall be tried in China only before the Special Chambers most accessible to the court within whose jurisdiction the cases originate, except, (1) those which may be taken to the Supreme Court of China on final appeal; (2) those in which nationals

²² Text of the Department's revised draft of treaty and notes handed to the Chinese Minister by the Chief of the Division of Far Eastern Affairs on April 27, 1931. This draft, amended as of May 4, was telegraphed in full, except for art. XV, to the Minister in China at Nanking in telegram No. 37, May 8, 1931, 8 p. m. (793.003/676); art. XV was quoted in Department's telegram No. 33, May 4, 1931, 8 p. m., as well as a redraft of this article (see *post*, p. 837).

of the United States of America concerned may elect in writing to submit themselves to the jurisdiction of the nearest Modern Court of Justice (Fa Yuan) to which no Special Chamber is attached; and (3) those which fall within the jurisdiction of the Police Courts of China as provided in Article I of the present Treaty. Similarly, all cases which arise in places where Special Chambers are established involving nationals of the United States of America as plaintiffs or complainants shall be tried before the Special Chambers.

ARTICLE III: LEGAL COUNSELORS

The Government of China agrees to take into its service for such period as it may consider necessary, not less than the duration of the present Treaty, a number of Legal Counselors, who shall be selected and appointed as officials of China from among foreign legal experts of high moral character who possess the training, qualifications and practical experience necessary for appointment to judicial office, and who shall be attached to the Special Chambers. Amongst these Legal Counselors, there shall be included one Legal Counselor of Chinese nationality to be similarly selected and appointed from among Chinese legal experts possessing similar training, qualifications and experience.

The names and the amount and conditions of payment of the salaries of the Legal Counselors will be communicated by the Government of China to the Government of the United States. Their terms of service will be governed by contracts and they shall remain in office for specified terms unless dismissed for cause duly shown, and shall otherwise receive the consideration and respect due to the dignity of their office.

A Legal Counselor need not permanently reside at the place in which the Special Chamber of the court to which he is assigned is established and there shall be a flexible and practicable system of administration of assignments in order to ensure efficiency in the use of the services of the Legal Counselors.

The Legal Counselors shall serve under the Minister of Justice and shall be deputed by the Ministry of Justice for service during the hearing of cases involving nationals of the United States of America as defendants or accused in the Special Chambers. It shall be the duty of the Legal Counselors in these cases to observe the workings of the Special Chambers. They shall be given access to the files of the proceedings and may present their views in writing to the judges who shall give due consideration to the views thus expressed by the Legal Counselors. Adequate arrangements shall be made for interpreting in order to enable the Legal Counselors to follow and observe the proceedings in court. The Legal Counselors shall forward to

the Minister of Justice such reports as they may consider necessary and copies of these reports shall upon request be immediately furnished by the Legal Counselors to the Minister of the United States of America in China.

In addition, the Legal Counselors shall be authorized to receive directly, from any of the interested parties to an action involving nationals of the United States of America, or from their counsel, observations in regard to the administration of justice, the execution of judgments, or the manner of the application of laws, and, at their discretion, shall bring such observations to the notice of the Minister of Justice with a view to ensuring the observance of Chinese laws. Copies of such observations shall likewise be furnished by the Legal Counselors to the Minister of the United States of America in China upon request.

Similarly the Legal Counselors shall be authorized to receive any other observations or complaints including such as may be caused by domiciliary visits, expropriations, requisitions, arrests, bail, detention, imprisonment, and personal status matters, which observations shall be dealt with in like manner. Immediately following any domiciliary visit, search or arrest directly affecting nationals of the United States of America in any judicial district, the local authorities shall notify the Legal Counselor most accessible in point of time.

When nationals of the United States of America, involved as defendants or accused, are tried before the Special Chambers, a foreign Legal Counselor shall be present at the hearings of the cases in both the High and District Courts, and judgment shall be reserved until he has made, within three days after the conclusion of the trial, such observations as he may desire to the judge or judges in chambers. In the event the judge or judges fail to give these observations due consideration, execution of the judgment will be suspended until the observations of the Legal Counselor shall have been considered by the Ministry of Justice which shall take such action as it deems necessary in the interest of justice.

The Chinese Courts referred to in Article II shall not begin to exercise jurisdiction over nationals of the United States of America until the Special Chambers therein provided for have been organized and the Legal Counselors have been appointed and installed in office as provided in this Article.

ARTICLE IV: LAWYERS AND INTERPRETERS

Nationals of the United States of America appearing before Chinese courts shall be entitled to employ duly qualified counsel of Chinese or American or any other foreign nationality, registered as such with

the Chinese Government, and such counsel, if of American or other foreign nationality, shall have the same rights and privileges as Chinese lawyers appearing before the court, and shall be subject, in all respects, to the same laws and regulations which govern Chinese lawyers. Such nationals shall also be entitled to employ duly qualified interpreters of whatever nationality.

Hearings shall be in the Chinese language but the court shall take measures to ensure an understanding of the proceedings by all parties and have the assistance of competent interpreters if necessary.

Nationals of the United States of America, parties to a suit or persons authorized by them may, upon payment of the usual official fees, obtain certified copies of the evidence and judgment in such suit, and arrangements will, if necessary and where possible, be made for supplying, on application, and on payment of the appropriate fees, translations of such documents.

In all judicial proceedings in which nationals of the United States of America are summoned to appear as parties or witnesses, and in all court processes directly concerning such nationals, their names will, in order to avoid mistake and misunderstanding, be added in English to the Chinese texts of the summonses, orders, or other court processes.

ARTICLE V: ARRESTS, IMPRISONMENT, DETENTION AND BAIL

Except in cases of the actual commission of crimes or offenses, nationals of the United States of America shall not be arrested, detained or imprisoned except upon an order formally issued by a Modern Court of Justice specifically stating the legal grounds on which and the offense for which the action is authorized. In all cases of arrest, nationals of the United States of America shall, within twenty-four hours after arrest exclusive of legal holidays, be brought for preliminary hearing and trial before the nearest Modern Court of Justice to which a Special Chamber is attached. If there is no such Modern Court of Justice which can be reached in that space of time, nationals of the United States of America thus arrested shall be brought, with the least possible delay, before the nearest Modern Court of Justice where they shall be allowed to choose, in accordance with the provisions of Article II of the present Treaty, which court shall take jurisdiction.

Nationals of the United States of America under detention or under sentence of imprisonment for a period of one year or less shall only be detained or imprisoned in modern detention houses or modern prisons or in other premises suitable for their detention or imprisonment, while those under sentence of imprisonment for a term of more than one year shall be imprisoned only in the modern prisons situated at places where Special Chambers are established.

Nationals of the United States of America arrested, detained or imprisoned shall be permitted to communicate with the nearest consular officer of the United States of America or to submit observations to the nearest Legal Counselor, and they shall be afforded all possible facilities to that end. Consular officers of the United States of America or their representatives shall be permitted to visit nationals of the United States of America under arrest, detention or imprisonment at all reasonable times.

If any national of the United States of America charged with and found guilty of an offense, the maximum penalty for which does not exceed imprisonment for six months, makes application before sentence is pronounced for the imposition of a fine instead of imprisonment, the court shall grant such application. In such cases the fine imposed shall not exceed a maximum of one thousand dollars. In like manner if any national of the United States of America charged with and found guilty of any offense, the maximum penalty for which does not exceed imprisonment for one year or a fine, makes application before sentence is pronounced for the imposition of a fine instead of imprisonment, the court shall grant such application. In such cases the fine imposed shall not exceed a maximum of three thousand dollars.

Except in cases of crimes punishable by death or imprisonment for life, immediate release on bail shall, on application, be granted to nationals of the United States of America arrested or detained, unless the court has good reason to believe that the accused may flee from justice after release. The amount of bail shall be reasonably proportionate to the offense alleged. Such facilities for release on bail shall be granted to appellants until the sentence of the final Appellate Court is given.

Nationals of the United States of America shall not be subject to imprisonment for debt. If, however, it is shown that a debtor is taking action which will render execution on his goods in China impossible, or if execution cannot be safeguarded by any other means, he may be detained in the manner provided for such cases by Chinese law, in which case the provisions of the third and fourth paragraphs of this Article shall apply.

Except in such cases as must in accordance with Chinese law be heard *in camera*, all hearings of cases involving nationals of the United States of America shall be open to the public and all persons interested in the hearings may be present as public spectators.

ARTICLE VI: TAXATION

Nationals of the United States of America shall be liable for the payment of such non-discriminatory Chinese taxation as may be ac-

tually paid by all nationals of China who are liable therefor and as may be authorized under legally enacted and duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China.

Nationals of the United States of America shall be protected against all taxation without legal sanction and against irregular or discriminatory methods of assessing or levying taxation, and such legal taxation as is properly payable by nationals of the United States of America shall be enforced against them by no other process than that of action in the competent Chinese Modern Courts of Justice.

Municipal taxation shall be imposed upon nationals of the United States of America only in accordance with duly authorized municipal regulations sanctioned by the Central or Provincial Governments of China. The proceeds of such municipal taxation shall in general only be expended on relevant purposes within the municipal area in question.

No methods of assessing liability to taxation shall be employed except those prescribed by duly promulgated laws, ordinances and regulations of China. In case of disputed assessment, the party concerned shall be entitled to have the amount of his liability determined by the competent Modern Courts of Justice in accordance with Chinese law.

Tax agreements entered into with nationals of the United States of America in their several capacities as companies, firms, partnerships, or corporations will be duly respected.

ARTICLE VII: ARBITRATION

The Chinese Courts of Justice will recognize and, if necessary, secure the performance of agreements wherever entered into by nationals of the United States of America between one another, or with other foreign nationals, or with nationals of China, for the settlement of civil or commercial controversies by arbitration. The arbitrators selected by the parties in accordance with such agreements may be of any nationality.

The arbitration shall be conducted in accordance with the procedure established in the jurisdiction where the arbitrators meet.

The Chinese Courts of Justice will not entertain any application or claim, the subject matter of which falls within the scope of such an agreement for arbitration, but will enforce awards made in pursuance thereof, unless the award is contrary to public order or good morals or its vitiated on other grounds recognized by the general principles of law as understood in modern jurisprudence.

The above provisions shall apply reciprocally to agreements for arbitration entered into by nationals of China and the enforcement of awards made in pursuance thereof by the United States Courts.

ARTICLE VIII: RIGHTS IN IMMOVABLE PROPERTY

All rights in immovable property acquired by nationals of the United States of America shall, subject to the exercise of the right of eminent domain by the Chinese Government, be recognized as valid and remain undisturbed.

The property in China of nationals of the United States of America shall not be expropriated except for reasons of public interest recognized by law as such and only after adequate compensation has been paid.

Any dispute regarding the amount of compensation to be paid shall be determined by reference to the competent administrative organ or Modern Court of Justice at the option of the nationals of the United States of America concerned, in accordance with Chinese law. Where such cases are brought before the Modern Courts of Justice to which Special Chambers are attached, the provisions of the Articles of the present Treaty in regard to Special Chambers and Legal Counselors shall apply.

ARTICLE IX: SEARCH OF PREMISES

The public buildings and private residences in China of nationals of the United States of America and their warehouses, business premises, factories, together with accessory articles and properties, shall be respected and shall not be subjected to any requisition, search or inspection; and the books and correspondence relating to their commercial transactions shall not be examined except as specifically provided for in non-discriminatory legislation, legally enacted and duly promulgated. Except where crimes or offenses are actually in the process of being committed, premises occupied by nationals of the United States of America shall only be forcibly entered upon warrants formally issued by Modern Courts of Justice stating the legal grounds on which the action is authorized.

ARTICLE X: MILITARY SERVICE AND FORCED LOANS

Nationals of the United States of America in China shall not be subject to any form of military service, or to any tax or levy imposed as substitute for military service, or to military requisitions or contributions of any kind nor shall they be liable or compelled to subscribe, directly or indirectly, to public loans or any other form of forced levy. Reciprocally, nationals of China shall enjoy in the United States of America similar exemptions in respect of all the above matters.

ARTICLE XI: SHIPPING

The commercial vessels of the nationals of the United States of America in Chinese ports or territorial waters or rivers shall comply with such non-discriminatory and legally enacted and duly promulgated Chinese regulations as are applicable to all similar vessels. They shall not be subject to any form of commandeering or requisition, nor shall they be compelled to carry Chinese troops or Chinese military supplies. Such vessels will not be inspected, searched, boarded, or subjected to any kind of restraint by Chinese armed military authority except in the case of special emergency and only after due notification to and by arrangement with the captain of the vessel or the officer in charge. They may not be boarded by Chinese police nor may any person be arrested on board any such vessel except upon a warrant formally issued by a Modern Court of Justice specifically stating the legal grounds on which action is authorized. In the absence of such a warrant, Chinese police may only board the vessel in case of special emergency and only after due notification to and by arrangement with the captain of the vessel or the officer in charge. In general the treatment accorded to the commercial vessels of nationals of the United States of America shall be in conformity with that accorded under recognized international practice by maritime nations to vessels of other countries in their ports or territorial waters. The present authority of the Chinese Maritime Customs with respect to the commercial vessels of nationals of the United States of America, including authority to search such vessels for the prevention of fraud or smuggling, shall remain unimpaired.

ARTICLE XII: COMPANIES

Companies, firms, partnerships, corporations or philanthropic institutions incorporated or organized in the United States of America or its territorial possessions in accordance with applicable laws and operating in China shall, provided they comply with Chinese laws relating to registration, be entitled to all the rights and privileges enjoyed by nationals of the United States of America under the present Treaty. Such companies, firms, partnerships, corporations or philanthropic institutions and their branches, agencies or representatives shall not be subject to discriminatory treatment, and, as regards national, provincial and municipal taxation, shall only be taxed in proportion to the amount of capital actually employed respectively in China, in the province, or in the municipality, or in respect of profits and revenues which they have actually earned respectively in China, in the province, or in the municipality.

Reciprocally companies, firms, partnerships, corporations or philanthropic institutions incorporated or organized in China in accordance

with applicable laws and operating in the United States of America shall enjoy as regards taxation, the right to carry on business and access to the courts, treatment not less favorable than that enjoyed by companies, firms, partnerships, corporations or philanthropic institutions of the most-favored foreign country.

ARTICLE XIII: PENDING CASES

Cases which have been terminated in the courts of the United States of America in China prior to the coming into force of the present Treaty shall not be reopened and judgments or decisions rendered in such cases shall, if necessary, be executed in any part of China by the Chinese judicial authorities.

Cases pending before the courts of the United States of America in China at the time of the coming into force of the present Treaty shall continue until judgment is pronounced in said courts, the jurisdiction of which shall remain in full force, and the Chinese authorities shall lend any assistance requested by the authorities of the United States of America in this connection. Such cases shall be disposed of and wound up within a period of six months, upon the expiration of which period, all cases still pending shall either be dismissed or turned over for adjudication to the Chinese courts which would otherwise have jurisdiction under the provisions of the present Treaty.

It is understood that after the coming into force of the present Treaty, no action against nationals of the United States of America shall be entertained by the competent Chinese courts in respect of acts which took place prior to that date, for which they were not liable according to the laws of the United States of America, but for which they might be liable according to laws of China.

ARTICLE XIV: RIGHTS OF RESIDENCE AND TRADE

In those areas in which the United States of America shall have completely surrendered extraterritorial jurisdiction over its nationals in China, the nationals of the United States of America, if they do not already possess such rights under existing treaties, shall be entitled to reside, travel, trade and own property.

ARTICLE XV: PERSONAL STATUS MATTERS

In matters of personal status the laws of the United States of America shall be applied by the Modern Courts of Justice as regards nationals of the United States of America in China unless the Chinese laws in regard to such matters are substantially the same as the laws of the United States of America or of the countries of Western Europe, in which case the Modern Courts of Justice shall apply Chinese law. In deciding whether Chinese or American laws are ap-

plicable in this connection, the Modern Courts of Justice shall consider briefs to be filed with the Courts by the lawyers for the interested parties and by the legal Counselors provided for in Article III of the present Treaty.

When nationals of the United States of America die in China, the local administrative authorities shall at once inform the nearest consular representative of the United States of America, provided, however, that if the latter receives the information of death first, he shall notify the local Chinese authorities accordingly.

In all cases where the consular officers of the United States of America deem such action necessary, they shall be entitled, upon receipt of notice of the deaths of nationals of the United States of America, to take possession of or take steps otherwise to protect and preserve the property of such deceased Americans pending the arrival of a duly authorized representative of the estate or the appointment by the competent court of an administrator. In the exercise of this duty, consular officers of the United States of America shall be given every assistance by the Chinese authorities if such assistance is requested.

The personal effects and objects of value left behind by nationals of the United States of America who die on the high seas, or when passing through China without having there any regular domicile or permanent residence, shall be handed over to or be taken possession of by the nearest consular representative of the United States of America, who shall be entitled and obligated to dispose of the same in accordance with the laws of the United States of America without any interference by the Chinese authorities.

ARTICLE XVI: NON-DISCRIMINATORY TREATMENT

In all matters for which provision is made in the present Treaty, nationals of the United States of America shall be accorded in China treatment in no way discriminatory as compared with the treatment accorded to the nationals of any other Power or Powers in China, and any exemptions from Chinese jurisdiction which may be accorded by China to the nationals of any other Power or Powers shall likewise be accorded to nationals of the United States of America.

ARTICLE XVII: DEFINITION OF THE EXPRESSIONS—"NATIONALS OF THE UNITED STATES OF AMERICA" AND "NATIONALS OF CHINA"

The expression "nationals of the United States of America" used in the present Treaty shall be deemed to include both citizens of the United States of America and citizens of its territorial possessions; and likewise the expression "nationals of China" shall be deemed to include both citizens of China and citizens of its territorial possessions.

ARTICLE XVIII: EXCLUDED AREAS

The provisions of the present Treaty shall not be applicable within a radius of ten miles from the present Custom Houses in the treaty ports of Shanghai, Tientsin, Hankow and Canton.

ARTICLE XIX: PROVISIONS OF EXISTING TREATIES

Except as superseded or modified by the provisions of the present Treaty, the provisions of existing treaties between the United States of America and China shall remain in force.

ARTICLE XX: DURATION AND RATIFICATION

The present Treaty shall come into force upon the date of the exchange of ratifications and shall thereupon be mutually binding over a period of ten years, at the end of which period the agreement may, in response to the demand of either party made six months prior to the expiration of the period, be revised by negotiation between the parties hereto. Should neither party demand such revision, the Treaty shall continue in force for an additional period of five years, at the expiration of which term and likewise at the expiration of each successive term of five years, the same provision for revision shall apply.

The present Treaty has been drawn up in the English and Chinese languages; but, in the event of there being any differences of interpretation, the sense as expressed in the English text shall prevail.

In faith, whereof, the above-named Plenipotentiaries have signed the present Treaty and affixed, thereto, their seals.

Done at, the day of 1931.

SIR: With reference to the Treaty which we have signed today in regard to the extraterritorial rights of the United States of America in China, I have the honor to request confirmation of our mutual understanding on the following points:

1. *Protection of the Courts:* The Chinese courts shall insure to the persons and property of the nationals of the United States of America due protection in accordance with international law and the general practice of nations.

2. *Personnel of the Special Chambers:* The President of the court to which a Special Chamber is attached shall be concurrently the chief judge of that Special Chamber and the other judges of the Special Chamber, as well as the procurators, shall be legal scholars with a broad knowledge of the general concepts of modern jurisprudence

and with practical experience, and their names, ranks, and salaries, shall be made known to the public, and they shall not be removed from office without cause.

3. *Legal Counselors*: The Legal Counselors shall be engaged and employed by the Chinese Government under contracts specifying in detail the duration and the terms of their service, including in the case of each foreign Legal Counselor total emoluments of not less than (blank) dollars compensation, United States currency, to be paid in quarterly installments, the said quarterly installments to be deposited in such bank or banks as the Legal Counselor concerned may indicate six months ahead of the time when such installments fall due. Among the corps of Legal Counselors selected by the Government of China, there shall be included Legal Counselors of American nationality, and, as far as practicable, a Legal Counselor of American nationality will officiate at the trial of cases involving nationals of the United States of America.

4. *Lawyers and Interpreters*: Duly qualified American lawyers appearing on behalf of nationals of the United States of America in the Chinese courts shall not be required to have a knowledge of the Chinese language or possess diplomas of Chinese law schools.

5. *Arbitration*: The Chinese Arbitration Law of January 20, 1930, shall have no application to arbitration agreements of the kind contemplated in Article V of the Treaty.

6. *Rights in Immovable Property*: All legal Chinese land transfer fees leviable under regular Chinese legislation shall be paid by nationals of the United States of America on account of land transactions effected after the date of the signature of the present Treaty; but no demand will be made by the Chinese authorities for the payment of such transfer fees on the transfer of land to or from nationals of the United States of America prior to the date of the signature of the present Treaty, and rights in immovable property held by nationals of the United States of America shall not be called in question on account of non-payment of such transfer fees in the past. Rights in immovable property in China now held by nationals of the United States of America shall not be questioned unless they are invalidated on legal grounds as a result of a decision rendered by a Modern Court of Justice, but nationals of the United States of America shall comply with the laws of China in regard to such property. In reaching their decision in such cases, the Chinese courts shall take into consideration the treaty provisions, and the laws, customs, and practices in various parts of China which existed at the time when such property rights were acquired. Existing rights of nationals of the United States of America to acquire, hold, and freely dispose and transfer their rights in immovable property in accordance with Chinese laws shall remain unimpaired.

7. *Publication of Codes:* With a view to enabling nationals of the United States of America to familiarize themselves with Chinese laws and judicial procedure, the Chinese Government agrees to prepare, publish and place on sale, an edition or editions of all Chinese codes and other important laws of China duly promulgated and enforced, together with authorized translations thereof, copies of which shall be communicated to the Government of the United States of America, and future laws shall be similarly published and communicated.

I have the honor to be, etc.

SIR: I have the honor to acknowledge the receipt of your Note referring to the Treaty which we have signed today in regard to the extraterritorial rights of the United States of America in China, in which you request confirmation of our mutual understanding on the following points:

(Seven points to be quoted in full.)

In reply, I have the honor to confirm our mutual understanding of the points as quoted above.

I have the honor to be, etc.

793.003/557;

Memorandum by the Minister in China (Johnson) ²³

NANKING, April 28, 1931.

British Minister came to see me this morning and I told him of my conversation with the Minister for Foreign Affairs yesterday. I told him that apparently Minister for Foreign Affairs was permitting it to leak out that he was hoping for the signature of treaties within next few days as Chinese correspondent for *Chicago Daily Tribune* had called upon me this morning to inquire whether I was going to sign within the next few days. British Minister stated that apparently Chinese were working on the theory that we wished to sign before convening of Conference, whereas we were really working on the theory that the Chinese wished to get something before the Conference. He said that yesterday afternoon at three o'clock he had gone to see Dr. Wang and that in the course of a conversation which concerned itself with a number of matters he inquired of Dr. Wang whether he had anything to offer in regard to the main principles under discussion. Dr. Wang replied that he had been waiting to hear what

²³ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in his telegram of April 28, 1931, 3 p. m., from Nanking; received April 28, 12:25 p. m. (793.003/629)

the British Minister might have to offer. Sir Miles pointed out that Dr. Wang was evidently mistaken as Mr. Henderson,²⁴ when he had last seen the Chinese Minister in London had indicated British terms in no uncertain manner and had asked Sze to ask Dr. Wang to put a definite proposition before Sir Miles Lampson in Nanking for reference to his Government. Dr. Wang then stated that he would name his final terms, namely, that the International Settlement at Shanghai could be reserved from the scope of the agreement for a period not greater than three years. Dr. Wang said that he realized that it would take probably six months to ratify and put into effect the new treaty and that inasmuch as the old treaties had but a matter of three years yet to run he was really giving the British the benefit of a year. Sir Miles stated that this of course was not good enough. The Minister for Foreign Affairs was adamant; he said that unless an agreement could be reached the Government would have to take unilateral action and would have to direct forceful action against the concessions. Sir Miles stated that he told Dr. Wang that he did not understand the meaning of his term forceful action; these were not the words customarily used in diplomacy. Dr. Wang said that he was not using them as directed to Sir Miles. Sir Miles stated that he could not take them in any other sense and that he thought China would rue the day when such steps were begun. He wished to remind Dr. Wang that in 1927 the British Government had made a very sincere offer to the Chinese Government in regard to British concessions,²⁵ an offer which the Chinese Government had not deigned to consider and that he thought it strange that at this time the Chinese Government should talk of forceful action. British Minister informed me that Dr. Wang seemed somewhat taken aback and repeated that he was not intending British Concessions, but that his statement had reference to others.

Sir Miles stated that Dr. Wang requested him to obtain an answer in regard to his terms by Wednesday the 29th on which day he was to report to the Political Council.

Sir Miles stated that the conversation having returned to other matters Dr. Wang referred to the various legal terms mentioned in the article concerning personal status, saying that it was going to be very difficult to translate these terms into Chinese. Sir Miles stated that he saw no necessity for a translation as the negotiations had been conducted entirely in English which was thoroughly understood and he thought that no translation was necessary. Dr. Wang demurred to this indicating that Chinese should be the authoritative text. Sir Miles stated that his Government would ask for a third text as authoritative which would doubtless be French and that the transla-

²⁴ Arthur Henderson, British Secretary of State for Foreign Affairs.

²⁵ See point 5 of British offer quoted by the British Ambassador in his note No. 41, January 19, 1927, *Foreign Relations*, 1927, vol. II, p. 344.

tion would be a long and tedious process requiring confirmation in Paris. He said that Dr. Wang seemed somewhat disturbed by this. Dr. Wang asked him if he was prepared to sign and Sir Miles informed him that the best he had contemplated was to initial agreed texts against subsequent confirmation and examination and in any case he must warn Dr. Wang that the whole treaty would have to be referred to the Dominions.

With reference to the question of residence in the interior the British wanted terms similar to the Czech treaty.²⁶ Sir Miles stated that the Chinese objected on the ground that the Czech and Polish terms²⁷ involved nationals of countries with whom China had relations on the basis of complete equality. China could not open the country to the nationals of countries which still retained concessions and reserved areas.

NEILSON TRUSLER JOHNSON

793.003/632 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, April 28, 1931—noon.
[Received April 29—11:20 a. m.²⁸]

My April 23, 4 p. m.

1. British Minister informs me that his present position regarding negotiations is as follows:

Articles 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, and 13 and the articles concerning nondiscriminatory treatment, British protected persons, the three declarations, the exchange of notes and the letter regarding arbitration law have been agreed upon.

2. Article 8 now reads:

“(1) All rights in immovable property held by British subjects in China shall be recognized as valid and shall remain undisturbed subject to the exercise of the right of eminent domain by the Chinese Government.

(2) The property whether movable or immovable of British subjects in China shall not be expropriated or requisitioned except for reasons of interest recognized by the law as such and only after adequate compensation has been paid.

(3) Any dispute regarding the amount of compensation to be paid shall be determined by reference to the competent administrative organ or the competent modern court of justice at the option of the

²⁶ Treaty of amity and commerce, signed at Nanking, February 12, 1930, League of Nations Treaty Series, vol. cx, p. 285.

²⁷ For treaty of friendship, commerce and navigation, signed at Nanking, September 18, 1929, and additional protocol of July 1, 1930, see *ibid.*, vol. cxx, pp. 331 and 343.

²⁸ Telegram in two sections.

British subject concerned in accordance with Chinese law. Where such cases are brought before the modern courts of justice the provisions of article No. 2 (Special Chambers) and article 3 (legal counselors) of the present treaty covering the hearings of cases in which British subjects are involved as defendants will apply."

3. In article 9, immunity of premises, see the paragraph No. 11 of my March 17, noon, the word "requisition" has been changed to "occupation".

4. British Minister has not yet heard from London about article 5, see paragraph No. 3 of my April 19, 4 p. m.

5. Article 11, see paragraph No. 4 of my April 19, 4 p. m., has been agreed to.

6. The reciprocity clause has been deleted from article 10, military requisitions and forced loans, and may be incorporated in the agreed minute the text of which, covering matters such as immunity of court from external interference, lawyers, et cetera, is still before British Foreign Office.

7. Reciprocity clause has been dropped from article 7, arbitration.

8. As regards personal status the following draft which is understood to be acceptable to Dr. Wang has been referred to the British Foreign Office:

"(1) In all matters of personal status, among which are included all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship and interdiction, and in all matters relating to succession to personalty whether by will or on intestacy, and to the distribution and winding up of estates and family law in general, English law will be applied by the Chinese courts as regards British subjects in China.

(2) All such cases of personal status where only British subjects are concerned will at the option of the parties concerned be dealt with outside the jurisdiction of the Chinese courts.

(3) British consular officers shall take possession of and administer the estates of British subjects dying in China in all cases where no objection to such administration has been filed by an interested party in writing at a British consular office in China within 90 days' notice of death announced by the competent consular office. In case of intestacy where there is no heir the immovable property of the deceased will be disposed of in accordance with the laws of China.

(4) In all the above-mentioned matters the principles of private international law will be likewise applied by the British courts as regards Chinese citizens in Great Britain without any discrimination against them as compared with the nationals of any other country."

9. As regards publication and communication and translation of codes, British and Chinese are at present deadlocked.

10. As regards rights of residence British Minister has referred to his Foreign Office the following text offered by Dr. Wang:

"British subjects shall, subject to Chinese laws and regulations, enjoy in China the right to travel, reside, establish firms, open branches, transact business, acquire or lease property, work and engage in industry or commerce, in all the localities where the nationals of any other country shall be permitted to do so, and in the same manner as the nationals of any other country, provided that where any rights in the same matters are granted to the nationals of any other country only upon the fulfillment of certain conditions, such conditions must also be fulfilled before British subjects are allowed to enjoy the same rights. It is understood that the existing rights of British subjects in respect of the above matter will remain unimpaired."

11. There remain outstanding to be discussed the following articles: Continuance of existing treaties except as modified; authoritative text (probably French); duration and ratification; excluded areas.

JOHNSON

793.003/557½

Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs of a Conversation Between the Chinese Minister (C. C. Wu) and the Chief of the Division (Hornbeck)

[WASHINGTON], April 29, 1931.

The Chinese Minister, Mr. Wu, called about noon today and stated that he had been instructed to inform the Department that Dr. Wang, the Chinese Minister for Foreign Affairs, had stated to the British Minister that he may be able to submit to the Political Council a proposal for the exclusion of Shanghai within the International Settlement area from the scope of the new treaty for a period of three years but that this is the only concession that he could make in regard to excluded areas, and that he, Wu, is now instructed to inform the Department of this and to the same effect. Minister Wu's statement was received without comment.

Minister Wu also stated that he had been instructed to communicate the Chinese proposal in regard to the rights of residence and trade and that he would send Mr. Weigh of the Chinese Legation to the Department that afternoon to give us the text of the Chinese proposal.

Mr. Weigh called that afternoon and handed to Mr. Jacobs this text which reads as follows:

[Here follows text printed *infra*.]

793.003/5574

*The Chinese Legation to the Department of State*²⁹

Tentative and without commitment

ARTICLE XIV. RIGHTS OF RESIDENCE AND TRADE

Nationals of the United States of America shall enjoy in China the right, subject to Chinese laws and regulations, to travel, reside, establish firms, open branches, acquire or lease properties, work and engage in industries or commerce, in all the localities where the nationals of any other country shall be permitted to do so and in the same manner and under the same conditions as the nationals of any other country, provided that where any rights in these matters are granted to the nationals of any other country only upon the fulfilment of certain conditions, such conditions must also be fulfilled before nationals of the United States of America are allowed to enjoy the same rights. It is understood that the existing rights of nationals of the United States of America in respect of the above matters will remain unimpaired.

793.003/629 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, April 30, 1931—5 p. m.

110. Department's 106, April 25, 4 p. m.

(1) [Here follows substance of conversation between the Chinese Minister and the Chief of the Division of Far Eastern Affairs reported in first paragraph of memorandum of April 29, 1931, printed on page 831.]

(2) In the telegram cited above and in previous telegrams, the Department's views regarding excluded areas were communicated to you. The British Ambassador here has been informed by the Department of the above.³⁰

(3) The Department hopes to be informed as to the position the British Foreign Office will take in view of C. T. Wang's statement to Lampson and of the communication on April 29 by C. C. Wu to us, mentioned in paragraph (1). It is the Department's opinion that the British and American Governments should firmly refuse to be moved

²⁹ Handed to Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs by the Third Secretary of the Chinese Legation on April 29, 1931.

³⁰ Pars. (1) and (2) were reported to the Consul General at Nanking, for the Minister in China, in telegram No. 30, April 30, 1931, 3 p. m. (793.003/629)

thereby from the position they have taken that a reasonable Shanghai area must be excluded and from the contention that similar Tientsin, Hankow, and Canton areas also should be excluded. It is the Department's opinion that a contention which Dr. Wang advanced that in any event our rights terminate 3 years hence with expiration of the treaties is unsound and, with reference particularly to the problem of the excluded areas, irrelevant. The Department notes with interest that the Japanese Government does not appear to be disconcerted by the Chinese declaration that Japan's extraterritorial rights no longer exist and also that the French Government has not indicated any weakening under the pressure of Dr. Wang's tactics.

(4) The Department wishes you to discuss the situation with the British Foreign Office and to report upon the views and, so far as is possible, the intention of the British Government.

STIMSON

793.003/557;

*Memorandum by the Minister in China (Johnson)*³¹

NANKING, May 1, 1931.

I called on British Minister this afternoon and he informed me that he had seen Dr. C. T. Wang and had read to him selected portion from the instructions which he had received from his Government with reference to Dr. Wang's final offer of April 27th. These instructions were to the effect that Dr. Wang's offer was by no means acceptable. British Government felt that the four areas should be excluded and that because of the complicated nature of the questions involved it was the opinion and the suggestion of the British Government that a very desirable way to deal with them would be to have commissions composed of responsible Chinese and British subjects which could investigate all of the questions involved and make proposals for a settlement. British Minister read to Dr. Wang the last paragraph of his instructions which were substantially to the effect that British Government hoped that Chinese Government would not take any precipitate action in this question which had been the subject of negotiations. British Government warned Dr. Wang that such action on Chinese part might very well result in turning what had been consultations on the part of the British Government with other governments to persuade them to take a more conciliatory attitude toward Chinese aspirations to consultations directed toward a

³¹ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in telegram of May 2, 1931, noon, from Nanking; received May 2, 4:55 p. m. (793.003/655)

common resistance to Chinese attitude. British Minister informed me that Dr. Wang was apparently very much taken aback by British Minister's communication. He said he could not go beyond what he had offered and refused even to go to higher authorities with any other proposition. British Minister pressed him not to look upon present situation as closing door to further discussion.

British Minister tells me that he informed his Government of Chinese attitude. He said that he did not know just where matters stood now but that he proposed to have Mr. Teichman make an appointment with Hsu Mo for the purpose of further discussion.

We went on to discuss the present situation and agreed that it would probably push the question of extraterritoriality into the background as a matter of importance at the coming conference. We also agreed that there was little chance of trouble here.

NELSON TRUSLER JOHNSON

793.003/653 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

[Paraphrase]

LONDON, May 1, 1931—6 p.m.

[Received May 1—4:09 p.m.]

127. Your 110, April 30, 5 p.m., has been discussed with the Foreign Office where I was informed that copies of the latest telegraphic instructions to Lampson as to this question are being telegraphed to the British Ambassador, who is to convey a summary of their contents to you.²²

I understand, briefly, that the British Government state that they are unable to consent to fixing a time limit to surrender jurisdiction in the Shanghai International Settlement and that Lampson has been instructed further, concerning the general subject of the reserved areas, to point out to the Chinese Foreign Minister the impossibility of discussing the matter until Chinese negotiations with other powers reach such a stage as to permit these other powers also to be brought into the discussions.

I am confidentially told that the present instructions to Lampson permit him, as a last resort, to yield in regard to Hankow.

DAWES

²² The British Chargé communicated this summary, with a covering note (neither printed), to the Secretary of State on May 3, 1931 (793.003/658).

893.00/11512

*Memorandum by the American Counselor of Legation in China
(Peck) of a Conversation Between the American Minister in China
(Johnson) and the French Minister in China (Wilden)* ³³

[Extract]

NANKING, May 3, 1931.

Mr. Wilden asked Mr. Johnson what effect, in his opinion, the present state of affairs would have on the negotiations in regard to the abolition of extraterritorial jurisdiction. Mr. Johnson pointed out that President Wang Chung-hui was the principal negotiator on the Chinese side and that his absence could not but hamper the negotiations. He expressed the opinion that the Chinese authorities, and the National People's Convention, would be engrossed with political issues, to the exclusion of treaty negotiation. Mr. Wilden appeared to derive some comfort from this. He asked Mr. Johnson whether the British were going to sign a treaty in a day or two. Mr. Johnson, without assuming to know anything positive about this, said he thought that only by some miracle would the British actually sign a treaty with the Chinese in the immediate future. Mr. Wilden then asked what stage had been reached in the American negotiations. Mr. Johnson said there was no prospect of an early conclusion to the negotiations and in view of Mr. Wilden's evident indecision as to what France ought to do, Mr. Johnson said he would tell Mr. Wilden in advance before he, Mr. Johnson, signed a treaty. (Evidently Mr. Wilden took this promise to include preliminary notice of a proposed signing of a treaty in Washington, as well. W. R. P.) Mr. Wilden appeared greatly pleased and relieved by this assurance of Mr. Johnson.

793.003/679

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck)*

[WASHINGTON,] May 4, 1931.

The Chinese Minister called at noon today by appointment made at his request.³⁴

The Minister stated that the question of excluded areas presented three problems, namely:

³³ Copy transmitted to the Department by the Counselor of Legation in his despatch No. 1006, May 26; received June 22.

³⁴ Joseph E. Jacobs of the Division of Far Eastern Affairs was also present.

1. The number of areas to be excluded;
2. The extent of the areas to be excluded;
3. The term of duration of the treaty.

In regard to the number and the extent of the excluded areas, Dr. Wu indicated that his Government thought that the number should be less and the areas less than proposed in the Department's latest draft. With regard to the term of duration of the treaty, he said that his Government proposes three years.

There was a lengthy discussion, in conclusion of which Mr. Hornbeck, in reply to express questions by the Minister, said that we feel that the exclusion of four areas is logical and reasonable; that discussion of any possible reduction of that number should be held at Nanking rather than here; that, with regard to areas, we would be willing to listen to any suggestions for a more logical delimitation than that of the ten mile radius; and that, with regard to the period of duration of the treaty, we would not like to discuss a period of less than ten years.

Dr. Wu also stated that the British negotiators had proposed an international commission to study and make recommendations with regard to excluded areas. He was informed that we assume that study will have to be made, though we are not prepared to say by what means or method, and that the necessity for dealing with these areas by some special method is, in our opinion, one of the strong arguments in favor of excluding them from the operation of the present agreement.

It was inferred from Dr. Wu's manner that either (1) he is optimistic that a treaty can be concluded along the lines of our present draft, or (2) he wishes to leave it to C. T. Wang to contest our position. Dr. Wu intimated that he assumed that further time would be given for negotiation and Mr. Jacobs and Mr. Hornbeck inferred that Dr. Wu thinks that Nanking will not denounce the treaties unilaterally on May 5.

793.003/654 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 4, 1931—2 p. m.

[Received May 4—8:50 a. m.]

British Minister informs me that in discussions regarding personal status matters he is having trouble getting Chinese to accept certain amendments suggested by British Foreign Office. Chinese say proposals put forward by us are much easier for them to accept. Please telegraph text of our article on this subject that I may show it to British Minister.

JOHNSON

793.003/5574

*Memorandum by the Minister in China (Johnson)*³⁵

NANKING, May 4, 1931.

I called on Sir Miles Lampson, British Minister, this afternoon and he told me that he had seen Dr. C. T. Wang this morning, and had found the latter in a very conciliatory mood. They discussed the question of reserved areas and Dr. Wang permitted the British Minister to infer that he might be able to persuade his Government to concede the entire area of the municipality of Greater Shanghai as being excluded from the treaty provided that the British would agree to some solution of the extra-settlement road question. Sir Miles told him that the British Government was prepared to meet the Chinese Government on the question of the extra-settlement roads but that Dr. Wang's offer was inadequate, in fact, he, Sir Miles, had been precluded by recent instructions from even so much as discussing the four original areas.

Dr. Wang told the British Minister that either today or tomorrow the Chinese Government would publish regulations governing jurisdiction over foreigners when extraterritoriality was abolished and that these regulations would be implemented by a mandate specifying the date on which they would come into effect. British Minister stated that he had heard that the date was to be October 1st but Dr. Wang stated that ample time would be given for successful negotiation of extraterritorial questions.

Sir Miles informed Dr. Wang that Dr. Wang's final terms amounting practically to an ultimatum had had their effect upon the British Government and he read once more to him the final paragraph of his instructions in which the British Government warned Dr. Wang lest his attitude cause British Government's consultations with other powers intended to lead to agreement with China to change to consultations with a view to a concerted resistance against China's demands.

NELSON TRUSLER JOHNSON

793.003/654 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, May 4, 1931—8 p. m.

33. For the Minister: Your May 4, 2 p. m., from Nanking.

1. The text of this article as it appeared in the Department's draft of April 27 was as follows:

³⁵ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in his telegram of May 4, 1931, 5 p. m.; received May 4, 6:30 p. m. (793.003/657)

[Here follows text of article XV of draft printed on page 823.]

2. In a discussion on May 2 between Mr. Weigh, of the Chinese Legation, and Mr. Jacobs, Weigh expressed a preference for the Sino-British draft of the article. As a result, the following redraft of this article was, on May 2, made for substitution:

"In all matters of personal status, among which are included all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship and interdiction, and in all matters relating to succession to personalty whether by will or on intestacy, and through the distribution and winding up of estates and family law in general, the applicable laws of the United States of America shall be applied by the Chinese courts as regards nationals of the United States of America in China.

All such cases of personal status where only nationals of the United States of America are concerned shall, at the option of the parties concerned, be dealt with outside the jurisdiction of the Chinese courts.

Consular officers of the United States of America shall take possession of and administer the estates of nationals of the United States of America dying in China in all cases where no objection to such administration has been filed by an interested party in writing at a consular office of the United States of America in China within 90 days' notice of death announced by the competent consular office. In case of intestacy where there is no heir the immovable property of the deceased will be disposed of in accordance with the laws of China.

The personal effects left behind by nationals of the United States of America who die on the high seas, or when passing through China without having there any regular domicile or permanent residence, shall be handed over to or be taken possession of by the nearest consular representative of the United States of America, who shall be entitled to dispose of the same in accordance with the laws of the United States of America without any interference by the Chinese authorities."

3. As both the British and American drafts in regard to the question of personal status matters are still tentative and without commitment, it may be possible for you to prepare a revision, using materials in both texts, which will be acceptable to British and to Chinese and to us. Keep in mind that we cannot grant reciprocity. Please report developments.

STIMSON

893.00/11427: Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 5, 1931—3 p. m.
[Received May 5—1: 55 p. m.]

1. My May 4, 5 p. m.³⁶ People's Conference met this morning. General Ho Ying-chin was present. Apparently he was only other im-

portant member there outside of Chiang Kai-shek and Chang Hsueh-liang.

2. Government mandate issued yesterday accompanied by regulations puts regulations into effect on 1st day of 1st month of 21st year of the Republic, that is January 1st, 1932.

3. Statement by C. T. Wang referring to manifesto and reviewing negotiations says "The National Government appreciates the very warm sympathy already shown by these powers especially Great Britain in the endeavor to consummate China's legitimate aspirations". Reference to Great Britain has significance as I understand C. T. Wang is reported to have said to Chinese newspaper correspondent that he made no reference to the United States because British Government was prepared to be conciliatory but was held back by recalcitrant attitude of the United States.

4. It is reported here that C. C. Wu is in active sympathy with Kwangtung faction.

5. Sun Fo has not returned to Nanking.

JOHNSON

793.003/557;

*Memorandum by the Minister in China (Johnson)*³⁷

NANKING, May 6, 1931.

I went to see Dr. C. T. Wang, Minister for Foreign Affairs, at ten o'clock this morning at his request at his house. He told me that he had a matter of considerable delicacy to communicate to me; that it involved a piece of information which, if true, was likely to affect adversely the friendly relations between the two countries. He said that from a source which he considered to be unimpeachable he had been informed that the American Government had attempted to persuade the British Government not to go so fast in the matter of meeting Chinese desires in negotiations on extraterritoriality. He said that this action had been taken either in Washington or in London and I inferred that his informant was either the Chinese Minister in London or the Chinese Minister at Washington. He said that he did not desire that this matter become the subject of any publicity. I said that only yesterday I had heard from a newspaper correspondent that he had stated to a newspaperman that he understood the United States was attempting to block British negotiations. Dr. Wang then said that he had as a matter of fact brought this information to the attention of the President and to the Political Council, although he had

³⁷ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in pars. 1 and 2 of his telegram of May 6, 1931, noon; received May 6, 9:30 a. m. (793.003/600)

added in making his report that he could not understand such action if it had taken place because of the friendly attitude manifested during the negotiations in Washington. I told Dr. Wang that I was at a loss to account for the report which he had received; that while he of course knew that the British and American Governments were in consultation in regard to the negotiations I had had no intimation that the American Government had attempted to interfere with the progress of these negotiations insofar as the other governments were concerned. I asked him whether he desired that I communicate this information to my Government. He said that he did so desire and asked that I get it confirmed if possible. Dr. Wang stated that his informant had told him that I knew nothing of this. He intimated that he believed that this action had been taken by the Secretary of State personally.

NELSON TRUSLER JOHNSON

793.003/5574

Memorandum by the American Minister in China (Johnson) of a Conversation With the Chinese Minister for Foreign Affairs (C. T. Wang) ³⁸

NANKING, May 6, 1931.

In the course of conversation this morning Dr. Wang informed me that he had received a communication from Dr. C. C. Wu in Washington to the effect that as regards negotiations there there were three points which remained to be settled. These points were (a) the United States was insisting on the exclusion of four areas; (b) the United States was asking for a ten mile limit in connection with each of these areas; (c) the United States was insisting upon a term of ten years. He stated that in regard to (b) and (c) Dr. Wu had informed him that the Department of State was prepared to accept any limit to these areas arranged with him by British Minister and myself and that in regard to the term the Department of State would accept any term between five and ten years that might be agreed to here. Dr. Wang stated that he had instructed Wu that on point (a) Chinese would never agree to four areas; that in regard to point (b) he thought it probable that he could persuade his Government to accept the exclusion of the area of Greater Shanghai, provided that it was agreed that the extra-Settlement roads were brought under the control of the Chinese Government as regards taxation, police and maintenance. He

³⁸ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in par. 3 of his telegram of May 6, 1931, noon; received May 6, 12:55 p. m. (793.003/600)

said that the Chinese attitude on the subject of a greater area at Shanghai was dictated by a fear that they might find themselves confronted by an agreement to the extension of the International Settlement. He said that he appreciated that there was objection to limiting the excluded area to the actual boundaries of the International Settlement due to the large number of foreigners living outside those boundaries and yet having daily occasion to visit the Settlement. The area of the municipality of Greater Shanghai should be sufficient to cover all the requirements. In regard to point (c) the Chinese Government must insist on a term of not more than three years. He said that his strongest point in persuading his Government to accept a proposal for the exclusion of Shanghai was the argument that the last treaty would expire in 1934. I understood him to use the term three years in connection with the exclusion of Shanghai and not in connection with the term of the treaty itself, but I did not discuss this matter with him as I did not know where it might lead.

NELSON TRUSLER JOHNSON

793.003/5572

Memorandum by the Minister in China (Johnson) ²⁹

NANKING, May 6, 1931.

I called upon Sir Miles Lampson, the British Minister, this evening and told him of the statement which Dr. C. T. Wang had made to me this morning regarding an attempt by the United States Government to dissuade the British Government from going too fast in meeting Chinese wishes in the matter of extraterritorial negotiations. Sir Miles stated that he was at a loss to understand the motive behind Dr. Wang's statement. He said that when he saw Dr. Wang on May 1st and communicated to him British Government's answer to Dr. Wang's final offer of April 27th he had stated under instructions from his Government that other powers and even the United States felt that British Government was proceeding too fast in the negotiations. He said that of course Dr. Wang might possibly have used his statement. I told the British Minister that while this was possible the whole trend of Dr. Wang's statement to me had been couched in such terms as to lead me to infer that he had received his information from an informant in London or Washington. I said that I had communicated Dr. Wang's message to my Government.

NELSON TRUSLER JOHNSON

²⁹ Copy transmitted to the Department by the Minister without covering despatch; received June 11.

793.003/663 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 7, 1931—noon.

[Received 8:52 p. m.⁴⁰]

1. Your 33, May 4, 8 p. m., to Nanking. Last sentence garbled but I understand Department to mean that we cannot accord reciprocity in the matter of personal status.

2. On May 4th Teichman handed to Hsu Mo a new draft of this article which Hsu Mo is now considering. New draft is based on text communicated in my April 28, noon,⁴¹ the only changes being amendments introduced by the British Foreign Office. These amendments are indicated in next paragraph.

3. In paragraph (1) word "personalty" changed to "property". Paragraph (2) has been changed to read "All such cases of personal status where only British subjects or the property of British subjects are concerned will be outside the jurisdiction of the Chinese courts and will be dealt with by the competent British courts". Paragraph (3) has been amended to read "British consular officers shall take possession of the estates in China of deceased British subjects. They shall administer the same in all cases where no objection to such administration has been filed by an interested party in writing at a British consular office in China within 90 days after notice of death has been published by the competent consular office.

Where such objection is filed the provisions of paragraphs (1) and (2) will apply as the case may be. In cases of intestacy where there is no kin the immovable property of the deceased will be disposed of in accordance with the laws in China". Paragraph (4) remains the same and is the reciprocity clause to which I understand Department has received objection.

4. This draft is so similar to the Department's redraft of May 2nd⁴² that I suggest that Department authorize me to hand it to Dr. Wang, after words "nationals of the United States of America" have been appropriately substituted for "British subjects", and minus the reciprocity paragraph (4) with a statement that this draft plus last paragraph of the Department's redraft of May 2nd relative to personal effects of transients is acceptable to us.

5. British Minister is prepared to accept paragraph regarding transients. As paragraph on reciprocity this is acceptable to British Government and British Minister is reluctant to drop it at this stage.

JOHNSON

⁴⁰ Telegram in two sections.⁴¹ Par. No. 8, p. 830.⁴² See telegram No. 33, May 4, 8 p. m., to the Consul General at Nanking, p. 837.

793.003/658 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, May 8, 1931—noon.

34. For the Minister: Department's 31, May 4, 6 p. m.⁴³

(1) By way of comment on the above, an extract is quoted below for you from the Department's reply to the British note of May 3 which transmitted a summary of instructions to Lampson:

[Here follows quotation of paragraphs 2 and 3 of the text, dated May 9, 1931, printed on page 849.]

(2) Regarding Hankow, the Department wishes you to keep in close touch with Lampson and, in case the situation should develop to such a point that he would seriously contemplate dropping the proposed reservation of Hankow, to inform him of this Government's willingness to make this concession simultaneously with the British, whereupon you would immediately inform the Department.

STIMSON

793.003/557:

*Memorandum by the Minister in China (Johnson)*⁴⁴

NANKING, May 8, 1931.

Mr. Shigemitsu, Japanese Chargé d'Affaires, called and we discussed his visit to Tokyo. He said that the situation at Tokyo was very complicated because of the change in Government; that everyone was busy with things that did not matter. I inferred from what he said that the political situation which ensued upon the change of cabinet was such that very few seemed to have opportunity for discussion of the Chinese question.

Mr. Shigemitsu said that Japan was very anxious to reach an accord with China on the question of extraterritoriality and to that end was prepared to follow the method that was being used in the negotiations by the United States and Great Britain. He said that Japan's position was more complicated than our position because of their interests in Manchuria. I inferred from what he then said that Dr. C. T. Wang had insisted that Japan could not have freedom of residence and trade for its nationals in China except as a corollary to the relinquishment by Japan of the leasehold of Dairen, the removal of Japanese railway guards, presumably the return of the South Manchuria Rail-

⁴³ Not printed; it reported the British Chargé's communication of May 3, 1931. See footnote 32, p. 834.

⁴⁴ Copy transmitted to the Department by the Minister without covering despatch; received June 11.

way, the giving up of Japanese concessions and the removal of Japanese naval vessels. Mr. Shigemitsu stated that this was the first time that Dr. Wang had injected these matters into the discussion of Japan's extraterritorial rights.

He pointed out that Japan had a great number of nationals and protected people who were living outside of the treaty port areas and enumerated something over a million Koreans in Manchuria alone and some two hundred thousand Japanese. Furthermore, he said Japan already possessed by agreement with China rights of residence and trade in Manchuria and in the area of Kiaochow.

He said that when China took the stand that Dr. Wang had taken the life line of Japan was really endangered. Japan's position in Dairen and along the South Manchurian Railway was not alone a sentimental one but was considered a military necessity. Japan after all had to take into consideration the position of Russia in the Far East and the five year plan of the Soviets and no Japanese government would permit them to face once more the situation which they had had to face some twenty-five years ago. If it were only a question of China proper he felt that it would be not so very difficult to reach an understanding but if Manchuria was injected into the picture then it was going to be very difficult indeed as Japan's position in Manchuria was a military position and Japan could not afford to see her first line of defense destroyed.

Mr. Shigemitsu stated that the new Government in Japan had come in on a platform of retrenchment and had announced that there must be a cutting down of army personnel and that this was making a great stir among the politicians and especially in those groups under the influence of the military.

NELSON TRUSLER JOHNSON

793.003/557½

*Memorandum by the American Minister in China (Johnson) of a Conversation With the British Minister in China (Lampson)*⁴⁵

NANKING, May 8, 1931.

I had lunch with Sir Miles today and in the course of conversation he informed me that he had telegraphed his Government in response to their request for an estimate of the situation stating that it was his opinion that he should proceed with the discussions here until they had cleared away all of the articles dealing with legal guarantees and

⁴⁵ Copy transmitted to the Department by the Minister without covering despatch; received June 11. Substance reported by the Minister in his telegram of May 9, 1931, noon, from Nanking; received May 9, 6:35 a. m. (893.00/11432)

possibly the preamble to the treaty and that when the point had been reached where they were in agreement on these matters it would then be time for a recess for the summer. He thought that after a summer's rest during which the Chinese could think over their position and get the People's Conference and the present political crisis into the background they could resume the negotiations about September with a better chance of success. Sir Miles stated that he felt that the issuance of the regulations covering the adjudication of cases involving foreigners and the mandate putting those regulations into effect on the first of January 1932 was a shrewd move on the part of the Chinese and might be considered as of advantage to us for it not only implemented some of the important guarantees for which we had been negotiating but it would prepare the minds of the Chinese for the treaty. It would put Dr. Wang in a position where he could say that the treaty merely contained provisions already the subject of domestic legislation.

Sir Miles stated that he was now waiting for his Government's reply before deciding on his plans.

I remarked that it was a sad commentary on the whole situation that Dr. Wang Chung-hui, President of the Judicial Yuan, fountain-head of inspiration for the entire judiciary of China, author of constitutions granting protection to the life and property of citizens of China, should desert the Government and flee to the protection of a foreign settlement at the first sign of trouble.

NELSON TRUSLER JOHNSON

793.003/660 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, May 8, 1931—6 p. m.

35. For the Minister :

(1) Reference your May 6, noon, paragraphs 1 and 2.⁴⁶ You should say to C. T. Wang, as from me, that this Government, which has traditionally conducted its relations with the Chinese Government upon a basis of reciprocal good will, marked constantly by the American Government's consideration for China's interests, resulting in a continuous and noteworthy American feeling and manifestation of friendliness toward China, to which Dr. Wang has referred frequently, regrets that he should make use of a report, whatever its source, that "the American Government has attempted to persuade the British

⁴⁶ See footnote 37, p. 839.

Government not to go too fast to meet the wishes of the Chinese Government in the matter of extraterritoriality" as occasion and basis to inject a suggestion of potential hostility into a serious negotiation between the Chinese and American Governments.

Dr. Wang intimates that this Government has been working behind the scenes with other governments against China's interests. The facts are simply that, since negotiations concerning extraterritoriality began in 1929, this Government has frankly indicated to the Chinese Government the policy which, in the belief of the American Government, should be followed for the sake of the future welfare of both countries. This Government has not hesitated to exchange views at the same time with other Governments concerned. The American Government has adhered consistently to the policy and principles to which it has openly and clearly indicated its commitment. This Government has been gratified that the Chinese Government's simultaneous negotiations with the American and British Governments have proceeded smoothly and with an evident desire, until recently, on the part of all—a desire which on our part remains constant—to reach an honorable agreement to be adequately considerate of the interests of all concerned. The American Government's confidence in the moderation and justice of its own views has found confirmation in the fact that during the course of the negotiations another Government, possessing such a regard for China's interests as does the British Government, apparently is of the same view as ourselves respecting not only the provisions which have been tentatively agreed upon but also the solutions which should be adopted in connection with points still outstanding.

The American Government, animated by a desire to deal in a practical manner with a practical question and to reach a solution which will bring about the needed readjustments with the least amount of friction and hardship for all concerned, has pursued and expects to continue pursuing in its relations with China the course of cordial, candid friendliness in dealing with this as well as other problems. It is this Government's hope that Dr. Wang will not resort again to implied or express suggestions of the Chinese Government contemplating a departure on its own part from the course of wisdom and friendliness.

(2) Reference your May 6, noon, paragraph 3.⁴⁷

(a) What C. C. Wu was told by the representative of the Department was that the exclusion of the four areas is regarded here as reasonable and logical and that any further discussion of this point should be held at Nanking instead of here;

⁴⁷ See footnote 38, p. 840.

(b) What the representative of the Department said regarding the 10-mile radius was that this Government would be ready to give consideration to any proposal which the Chinese might reasonably make to delimit more logically each of these areas. No statement was made that this Government would accept any limit arranged for these areas by C. T. Wang, Lampson, and you. No question was raised as to where or how a proposal on this subject by the Chinese should originate or be carried on;

(c) What the representative of the Department said regarding the 10-year term had reference to the treaty's duration, inclusive of the provisions on the excluded areas. He stated that the Chinese proposal of 3 years we regarded as inadequate; that a proposal of 5 years would be regarded as inadequate; that 10 years we regard as reasonable and in accord with the usual practice in important treaties; and that a proposal for a period of less than 10 years we would prefer not to discuss. He did not state that any number of years between 5 and 10 which might be agreed upon at Nanking would be acceptable to us.

Finally, he said that discussion of any possible further concessions should take place at Nanking.

(3) You are informed that the Department does not regard Dr. Wang's reiterated assertion that "the last treaty would expire in 1934" as relevant in connection with the question of excluded areas, especially Shanghai. To be sure, the 1903 treaty between China and the United States⁴⁸ does come up for revision in January of 1934; but, whether this treaty is then terminated or extended, the Department does not consider its provisions to be determinative of the status either of Shanghai or of other treaty ports. In addition, extraterritorial rights in general do not rest upon this treaty's provisions but upon provisions of other treaties of unlimited duration and earlier date. The American Government has not wished to stand upon such rights, but they do exist. This Government's desire has been and is to reach with the Chinese Government an equitable and practical agreement to ensure restoration to China, when adequate protection can be afforded to foreign life and property by Chinese courts and other administrative agencies, of complete judicial jurisdiction throughout the territory of China.

With regard especially to Shanghai, the Department has tried to impress upon C. C. Wu that the proposal for exclusion of an area at Shanghai within a radius of 10 miles is not connected directly with the Shanghai extra-Settlement roads or other problems affecting the International Settlement as such. These problems are separate from

⁴⁸ Treaty for the extension of commercial relations, signed at Shanghai, October 8, 1903, *Foreign Relations*, 1903, p. 91.

the jurisdiction of courts question, which is the subject being dealt with in the present negotiations. With a view to devising a solution of these problems in which their peculiar difficulties can be adequately taken into account, the Department has been and continues ready to enter at any time, along with other powers most interested, into negotiations with the Chinese.

STIMSON

793.003/664a : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, May 8, 1931—7 p. m.

36. For the Minister :

(1) In view of the fact that provisions of the proposed treaty regarding extraterritoriality contemplate radical changes in the rights and privileges of Americans in China and of the further fact that the Chinese Government may demand on January 13, 1934, a revision of the 1903 Chinese-American treaty, which defines various rights of United States consular officers in China, it is felt by the Department that it would be a wise precautionary measure to have included in the new treaty or in an accompanying exchange of notes a provision regarding the rights and privileges of consular officers. The best way to define the rights and privileges of such officers probably would be to negotiate a consular convention between China and the United States, but just at the present time it would not appear advisable to make an effort in this regard. To attain the same purpose in part it would suffice to obtain an exchange of notes to be phrased somewhat as follows: ⁴⁹

“Pending the coming into force of a consular convention between the United States and China, the rights and privileges of the consular officers of China in the United States and of the consular officers of the United States of America in China (except the right of extraterritorial jurisdiction over nationals of the United States of America in those areas where the extraterritorial rights of the United States of America have been surrendered), as defined in the existing treaties between the two countries, shall remain in force, provided that the treatment accorded by either country to such officers of the other shall not be less favorable than that accorded to similar officers of the foreign power most favored in this respect.”

(2) You will please consult with Lampson regarding this point and report his and your views.

STIMSON

⁴⁹ Quotation not paraphrased.

793.003/658

*The Under Secretary of State (Castle) to the British Ambassador
(Lindsay)*

WASHINGTON, May 9, 1931.

MY DEAR MR. AMBASSADOR: I have to acknowledge the receipt of Mr. Campbell's⁵⁰ letter of May 3, 1931,⁵¹ enclosing a summary of the instructions sent by the British Foreign Office to the British Minister to China on the subject of extraterritoriality, and stating first, that although the argument that foreign rights in Shanghai would lapse automatically in three years had not been presented to the British Government, it would contest such an argument; secondly, that the British Government understands that the attitude of the Government of the United States in regard to reserved areas coincides exactly with its own; and thirdly, that authority has been given to the British Minister to China to give way to the Chinese Government as regards Hankow in the last resort, but not as regards Shanghai (the whole area) or Tientsin or at present Canton.

The Department is gratified to note that the attitude of the British Government on these points coincides with that of the American Government.

The Department notes with interest the suggestion of the British Government, referred to in the summary of the instructions of the British Minister to China, that an international commission be created, after the coming into force of the new Treaty, to study and make recommendations in regard to the excluded areas. It is believed that this suggestion, if adopted, would open the way for a final solution of the intricate problems involved in the protection of foreign interests in the reserved areas, particularly at Shanghai.

With regard to Hankow, the Department trusts that, in case the point arrives at which the British Minister to China deems it advisable to give way, his intention so to do may be made known in advance or immediately to the American Minister to China and/or to the Department.

I am [etc.]

W. R. CASTLE, JR.

⁵⁰ Ronald Ian Campbell, Counselor of the British Embassy, temporarily in charge.

⁵¹ Not printed.

793.003/665 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 9, 1931—11 a. m.

[Received 6:45 p. m.]

My telegram of May 7.

1. Following text of article 2 regarding personal status matters has been worked out between Teichman and Hsu Mo. It has been referred to British Government with a recommendation that it be accepted as British Minister believes it will be acceptable to the Chinese.

2. "Article 2. In all matters of personal status, among which are included all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, dower, majority, guardianship, trusteeship and interdiction, and in all matters relating to succession whether by will or on intestacy, and to the distribution and winding up of estates and family law in general, English law will be applied by the Chinese courts as regards British subjects in China.

All such cases of personal status where only British subjects are concerned will at the option of the parties concerned be dealt with outside the jurisdiction of the Chinese courts.

3. British consular officers shall take temporary possession of the estates in China of deceased British subjects. They shall administer the same in all cases where no objection to such administration has been filed by an interested party in writing at a British consular office in China within 90 days after notice of death has been published by the competent consular office. Where such objection is defended the provisions of paragraphs 1 or 2 will apply as the case may be. In cases of intestacy where there is no kin the immovable property of the deceased will be disposed of in accordance with the laws of China.

4. In all the above-mentioned matters the principles of private international law will be likewise applied by the courts of the United Kingdom as regards Chinese citizens without any discrimination against them as compared with the nationals of any other country."

JOHNSON

793.003/667b : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, May 9, 1931—noon.

38. For the Minister: Department's 35, May 8, 6 p. m., to Nanking.

(1) Reference Department's April 27 draft on extraterritoriality.⁵² The articles which correspond in this draft to those upon which the Chinese and British negotiators have so far reached accord, as reported by you, resemble in substance those of the Chinese-British draft.

⁵² *Ante*, p. 815.

Special note should, however, be made of the following features in the Department's draft:

Article 2. Special Chambers: There has been included provision for the hearing before these chambers of cases arising in places where such chambers are established and involving Americans as plaintiffs or complainants.

Article 2. Special Chambers; Article 3. Legal counselors; Article 5. Arrests, imprisonment, detention, and bail: There has been considerable change of phraseology in these articles.

Article 12. Shipping: At the end of this article there has been added a clause designed to give consular officers continued control over the internal affairs of merchant vessels.

Article 15. Personal status matters: For this, see the Department's 33, May 4, 8 p. m., to Nanking.

Article 19. Provisions of existing treaties: While the Department has not agreed to this, the following phraseology is desired for this article by the Chinese Legation: "All provisions in the existing treaties between China and the United States of America relating to matters of jurisdiction shall be abrogated and cease to be operative."

Article 20. Duration and ratification: The phraseology of this article necessarily is very tentative, since the Chinese have not yet agreed to the 10-year period of duration. C. C. Wu desires the preparation of a French text to be used as the authoritative text in case of dispute. To this the Department has not yet agreed, but without having carefully studied the matter it does not believe there are any insurmountable difficulties to Wu's proposal.

Exchange of notes (8th section), Mutual relations of courts: This additional paragraph has been inserted by the Department for the purpose of having some provision for the mutual relations between the Chinese courts and the American courts continuing to function in the excluded areas.

(2) This new draft should be compared by you with the Chinese-British draft and a copy communicated to Lampson. After you have discussed it with him, the Department wishes to have the benefit of your observations.

(3) There is being forwarded by mail to you a copy of the April 27 draft which was telegraphed to you by the Department.

STIMSON

793.003/605: Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, May 12, 1931—5 p. m.

40. For the Minister: Your May 7, noon, and May 9, 11 a. m., from Nanking.

(1) The Department would be willing to accept the Teichman-Hsu Mo draft of the article regarding personal status matters if this draft

proves acceptable to the British and Chinese Governments and if the reciprocity clause be deleted. Also the Department would prefer retaining the clause regarding estates of transients. The Department will discuss this article's redrafting when discussions are resumed with C. C. Wu, who returns this week after an absence from Washington.

(2) The main difficulty in the way of American acceptance of the reciprocity clause is due to existence in several States of a law which prohibits marriages between persons of white and of Mongolian race. Should the Chinese demur from accepting a draft in which reciprocity is not granted, it will be pointed out to them that, though the United States is less liberal in this respect than Great Britain, the former is more liberal than the latter as regards reciprocity in matters such as military requisitions, forced loans, and arbitration of commercial controversies. (Your April 28, noon, from Nanking, paragraphs 6 and 7.)

STIMSON

793.003/665 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, May 13, 1931—5 p. m.

130. (1) The Department has been informed by the British Embassy that the British Government considers as most important the question of personal status and fears lest more has been given up here in the American negotiations with C. C. Wu than the British Government deems it wise to surrender.

(2) The British Foreign Office may be informed by you that this personal status matter has been dealt with in an exchange of telegrams the Department has had with Nelson T. Johnson. The last telegram, dated May 12, said in part as follows:

"[Here follows quotation of paragraph (1) of telegram No. 40, May 12, 1931, 5 p. m., to the Consul General at Nanking, printed *supra*.] (The text of this article still is tentative and without commitment.) The main difficulty in the way of American acceptance of the reciprocity clause is due to existence in several States of laws which are discriminatory as regards the question of marriage."

(3) This appears to the Department to be another example of a Chinese effort to play off Americans and British, or vice versa, for the object of obtaining further concessions.

STIMSON

793.003/675 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, May 13, 1931—9 p. m.

[Received May 13—12:10 p. m.]

21. The National People's Convention today issued a manifesto the substance of which is as follows:

In order that the existence of the Chinese race may be protected, an obstacle to the peace of the world removed, and a blot on modern civilization wiped out, and, believing that the powers of the world will understand and agree, and the Chinese people will give uniform support, it is declared: (1) that the Chinese people do not accord recognition to any of the unequal treaties previously concluded between the foreign nations and China, and (2) that in accordance with the teachings of the late leader the National Government shall within the shortest possible period of time put into realization the freedom of China and her complete equality among the nations.

PECK

793.003/557:

Memorandum by the Minister in China (Johnson) ⁶³

NANKING, May 14, 1931.

I called upon Dr. C. T. Wang, Minister for Foreign Affairs, this morning and I read to him as coming from the Secretary of State paragraph one of Department's telegram of May 8, 6 p. m. to Nanking, being the Secretary's reply to Dr. Wang's communication to me in my conversation with him of May 6th. Dr. Wang said that reading between the lines he interpreted this as an admission on the part of the Secretary of State that the American Government had attempted to persuade the British Government not to go too fast in its negotiations with him on the subject of extraterritoriality. He said that he was gratified to know that the American Government had been and would continue to be frank in regard to these matters. He said that all he wanted to do was to prevent any unfriendliness being injected into the situation.

I told Dr. Wang that I of course could not prevent his drawing any conclusions which he might choose to draw but that there was nothing in my records to convince me that my Government was attempting to play politics in this matter, that all along we had been ready, willing and anxious to work out with the Chinese Government some practical method of bridging the gap between extraterritoriality and non-extraterritoriality; that we had never attempted to deceive the Chi-

⁶³ Copy transmitted to the Department by the Minister without covering despatch; received June 11.

nese Government as to what we thought this practical method should be. I then read to him paragraph two of the Department's telegram giving the Department's attitude on the questions of reserved areas and the term[s] of the treaty.

NELSON TRUSLER JOHNSON

793.003/677 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

[Paraphrase]

LONDON, May 15, 1931—1 p. m.
[Received May 15—8:08 a. m.]

147. The Foreign Office here concurs in the opinion of the Department as expressed in your 130, May 13, 5 p. m., paragraph (3).

The British Embassy in Washington is being kept duly documented. The Foreign Office tells me that their Ambassador there was telegraphically instructed last night to inform you of the latest exchange of telegrams between the Foreign Office and their Minister in China.

DAWES

793.003/688 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 19, 1931—9 a. m.
[Received 3:05 p. m.⁶⁴]

Your 38 [40], May 12, 5 p. m., to Nanking.

1. Draft of personal status article drafted by Hsu Mo and Teichman is acceptable to Chinese. British Government desire a small change in second paragraph which Teichman is having difficulty getting Chinese to accept. British Government have no objection to paragraph about estates of transients but hesitate to inject it into their draft at this late date.

2. British Minister who has been in Shanghai for a week returned and saw C. T. Wang today with the result that they have agreed upon following texts:

"Article 15. Rights of residence and trade. The existing rights enjoyed in China by subjects of His Majesty to travel, reside, establish firms, open branches, acquire or lease property, work and engage in industry or commerce, shall remain unimpaired."

British Minister will address a note to the Minister for Foreign Affairs at the time of signing the treaty referring to this article and stating:

⁶⁴ Telegram in three sections.

"His Majesty's Government reserve to themselves the right to raise the question of trade and residence throughout the interior of China at such later date as they may deem appropriate."

3. "Article 19. Provisions of existing treaties. The provision of the existing treaties between the high contracting parties which are in conflict with the present treaty are hereby abrogated."

4. "Article 20. Authorized text. The present treaty has been drawn up in Chinese and in English pending the preparation of a French text on which the two high contracting parties will agree as soon as possible and which will be authoritative in case of divergence between the Chinese and English texts."

5. In addition the following two letters were agreed upon:

"(Notes from Minister for Foreign Affairs to His Britannic Majesty's Minister)

Sir: With reference to the treaty concluded between us today, I have the honor in reply to Your Excellency's inquiry to state that the work of compiling the modern Chinese codes and laws has now been completed and that a copy of the *Ssu Fa Li Kuei* of the National Government issued by the Judicial Yuan containing the texts of all the important codes, laws, ordinances and regulations promulgated down to the present time, a revised edition of which is in course of preparation, will be transmitted to Your Excellency as soon as possible. I have further the honor to inform Your Excellency that, with a view to enabling British and other foreign nationals in China to familiarize themselves with Chinese laws and judicial procedure, translations of the principal Chinese codes, laws, ordinances and regulations are being made and will be placed on sale, such translations being checked by and prepared under the aegis of the competent Department of the Chinese Government. It is of course understood that Chinese is and remains the only authoritative text of Chinese codes, laws, ordinances and regulations."

"Sir: With reference to the treaty concluded between us today, I have the honor to assure Your Excellency as follows:

Where British subjects are involved in minor incidents or offenses such as infractions of municipal regulations, motorcar cases and so on, the Chinese police will so far as may be practicable assure themselves of the identity of the individuals concerned by taking their names and addresses and will not arrest them or detain them in police stations.

It is understood that the liability of a British subject standing bail for a party involved in court proceedings will in all cases be limited to the amount of actual bail fixed by the court.

The qualifications of British professional men such as doctors, chartered accountants, architects and engineers, will, if necessary, on production of proper evidence including registration with the Chinese Government, where such registration is required by Chinese law, be recognized by the Chinese courts.

In connection with legislation providing for the examination of commercial books and correspondence it is understood that in the

case of British firms the certificates of duly qualified chartered accountants will be accepted with a view to dispensing as far as may be practicable with such examination."

6. The following three additional paragraphs to the (unpublished) agreed minute were also agreed upon.

"Sir Miles Lampson, referring to article 10 of the treaty, assured Dr. Wang that it was to be understood that Chinese citizens in the United Kingdom would enjoy in respect of the matters referred to in the said article the same exemptions as were enjoyed by the subjects or citizens of any other foreign country.

Dr. Wang informed Sir Miles Lampson, with reference to clause 5 of article 5 of the treaty, that it was of course to be understood that the courts would not intentionally discourage such applications by unnecessarily imposing the maximum fine.

Referring to clause 2 of article 14 of the treaty, Dr. Wang assured Sir Miles Lampson that it was to be understood when any such cases were dealt with outside the jurisdiction of the Chinese courts they would be dealt with by the competent courts of His Britannic Majesty."

7. The discussion came to an end when it reached the question of reserved areas. British Minister left with Dr. Wang the following proposal which Dr. Wang refused even to discuss. Whether or not discussion proceeds farther awaits further instructions from London.

"Article 16. (1) The transfer of jurisdiction over British subjects from the British to the Chinese courts as provided in this treaty shall not apply in areas where Chinese administrative jurisdiction does not apply.

(2) It is agreed that the said transfer of jurisdiction over British subjects from the British to the Chinese courts shall not apply within the municipal areas at Shanghai, Tientsin, Hankow and Canton as shown on the attached maps.

(3) It is further agreed that a joint commission shall be set up on a date to be mutually agreed upon after the entry into force of the present treaty to study insofar as British interests are concerned the problems of the areas specified in paragraph 2 and that subject to the concurrence of other interested governments negotiations on the basis of the recommendations of this commission shall be entered into within a period of 10 years from the date of enforcement of the present treaty.

(4) The jurisdiction of the British courts shall continue unimpaired in the areas specified in paragraph 2."

793.003/685 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, May 19, 1931—3 p. m.

[Received May 19—6:03 a. m.]

My May 9, 11 a. m., on personal status. The second paragraph of the British text should read as follows:

"All such cases of personal status where only British subjects are concerned will at the option of any of the parties concerned be dealt with outside the jurisdiction of the Chinese courts."

The British are endeavoring to have the Chinese accept the words "of any", and I suggest they be put in the American draft for discussion with C. C. Wu.

JOHNSON

793.003/687 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, May 19, 1931—4 p. m.

[Received May 19—9:20 a. m.]

Department's 36, May 8, 7 p. m., to Nanking. I have discussed with Lampson the question of the advisability at this time of negotiating with China a consular convention, and Lampson has referred the matter to the British Government. Both he and his Government feel it would not be opportune at this time to inject this question into the extraterritorial negotiations. I concur with the British Government's view that consular functions are protected by the provisions of article 19 in the proposed treaty in regard to provisions of existing treaties. The British Government expects this subject to be taken up in connection with a commercial treaty when the present treaty has been disposed of. A draft of a commercial treaty was presented some 2 years ago by the British Government to the Chinese Foreign Office. Negotiations did not, however, begin, for the Chinese brought up at that time the extraterritoriality question.

JOHNSON

793.003/686 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, May 19, 1931—5 p. m.

[Received May 19—9:25 a. m.]

Your 35, May 8, 6 p. m. I read paragraph (1) of this telegram to C. T. Wang, and he chose to interpret it as a Department admission of having attempted to slow down the British. I also read paragraph (2) to him. In the press there is some intimation that the Government may be intending to transmit to us officially the text of their mandate and regulations mentioned in my May 5, 3 p. m. Would the Department have any advice to give me in the event of such action by the Chinese Government? I have been thinking about refusing to accept such a communication. In view of the present negotiations I have expected the Foreign Office to adopt the wise course and not communicate the mandate officially to me.

JOHNSON

793.003/689 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, May 20, 1931—9 a. m.

[Received 3:25 p. m.]

Department's 38, May 9, noon.

(1) I have brought the Department up-to-date (see my May 19, 9 a. m., and May 19, 3 p. m.) on the British negotiations, inclusive of the drafts agreed upon and pending. Lampson has asked that I obtain for him any new matter which the Department and C. C. Wu may be able to agree upon for possible use here in their negotiations.

(2) As the matter now stands, an agreement has been reached by the British and Chinese on all points save the preamble, the reserved areas, and the duration of the treaty.

(3) The preamble probably will not give trouble.

(4) Nothing has been accomplished with reference to reserved areas. Lampson's instructions are worded in such fashion that he has not been willing to take the risk of even an intimation to the Chinese Foreign Office of his readiness to make any concession on this point, although his instructions contemplate yielding Hankow and, if need be, Shameen. The initiative in making a concession in this regard will have to be taken by the British and us, since there is no evidence

that C. T. Wang will. Lampson is seeking additional instructions concerning this question and, unless authorized to make a concession, contemplates returning for a recess to Peiping, not sooner than May 25 and not later than [May 30²], as he does not expect Dr. Wang to give in.

(5) In regard to the treaty's duration, C. T. Wang offered a 5-year treaty and 3 years for Shanghai and the articles on Special Chambers and legal counselors. Lampson replied that he must insist upon a 10-year treaty covering Shanghai and 7 years for Special Chambers and legal counselors. The matter remains unsettled.

(6) Respecting our comments on the American draft as a whole, Lampson and I feel it is a good one. The draft still contains some matters which the British have been unable to get here in their negotiations, so we shall be interested to learn whether the Department is able to obtain C. C. Wu's acceptance of them. I apprehend from something said to me the other day by Dr. Wang that you will be unable to get Chinese agreement to the new provision in article 2 for cases involving Americans as plaintiffs and defendants to be heard before Special Chambers.

(7) As to the last paragraph of article 3 on legal counselors, the Department's wording appears to me to be not so good as that of the paragraph in the British text which I communicated to the Department in my March 28, 10 a. m., paragraph 6. The American draft says, "each of the respective Chinese courts referred to in article 2 shall begin to exercise jurisdiction," etc., while the British text says, "the Chinese courts referred to in article 1 shall not begin to exercise jurisdiction," etc. I think it preferable for the word "not" to be retained.

(8) Adding philanthropic institutions to article 12 is wise. The Chinese are asking for, and the British will agree to, the addition of the words "of such organizations" following the words "comply with Chinese laws relating to registration" in the first sentence of article 12.

(9) Regarding the long letter annex, Lampson once tried to throw all the British additional matters into a single letter, but Hsu Mo was found to be unwilling. The American form appears preferable to both of us if it can be obtained. Nor have the British been able to get the Chinese to agree to putting into letters the matter which now is contained in their minutes, agreed though not to be published.

(10) The political situation is most tense. The Chinese here seem to take a very gloomy view and to be persuaded of an almost inevitable outbreak of warfare. Sun Fo and Wang Chung-hui both remain at Shanghai, where responsible Government members are pleading with them to return to Nanking. From statements made to me here, I am persuaded that the Government doubts C. C. Wu's

loyalty. Wang Ching-wei, who has left Hong Kong, is reported en route to Tientsin. The Chinese say that an outbreak of war would involve more territory and active military leaders than previously. The Cantonese group seems to be, at any rate for the moment, definitely out in opposition to the Government. Marshal Chang Hsueh-liang left today by plane for the North after an apparently cordial and successful visit here.

JOHNSON

793.003/686 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, May 20, 1931—noon.

42. For the Minister: Your May 19, 5 p. m., from Nanking.

In regard to receiving from the Chinese Government, should it offer, an official communication of texts of the recent mandate and regulations, the suggestion is made that you consult in your discretion your most interested colleagues in advance.

It is the Department's belief that the same attitude should, if possible, be assumed by all of you, but particularly by you and Lampson. If such communication is offered to you, the Department feels it desirable for you to point out to C. T. Wang that this Government still is negotiating with the Chinese Government in the expectation and hope that a solution be found of the remaining matters on which no accord has yet been reached, therefore, the American Government would deplore an official statement to it by the Chinese Government that the latter is abrogating treaty provisions, since the prospect of reaching an amicable agreement would be prejudiced by such action. If C. T. Wang should insist, in spite of such statement by you, on making the communication, then there would seem to be no course for you except to receive the communication. You would thereupon do this without making further comment.

In the light of the foregoing and of the suggested exchange of views, you may decide as to what is advisable.

The Department would appreciate receiving information on the instructions or intention of Lampson in this connection.

STIMSON

793.003/687 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, May 20, 1931—6 p. m.

43. For the Minister: Your May 19, 4 p. m., from Nanking.

(1) The Department in its 36, May 8, 7 p. m., expressed the view specifically that "just at the present time it would not appear advisable to make an effort" to negotiate a consular convention.

(2) The opinion of the Department has been and is that, if reasonably interpreted, the provision made in the American draft of April 27, article 19, should ensure to consular officers the continuance of their existing rights and privileges other than that of the exercise of judicial jurisdiction over American nationals. The Department is inclined to believe, however, in the light of past experience, that Chinese Governments later may attempt the curtailment and abridgment of the rights of consular officers through the process of interpretation by deciding in practice which provisions of old treaties are abrogated and which remain in force. The fear of this prompted the Department to suggest the consideration of an exchange of notes, in connection with the present negotiations, along the lines of the text quoted in its 36, May 8, 7 p. m., definitely removing the question of consular rights and privileges from the realm of "interpretation".

(3) There will inevitably be complaints, some imaginary and some real, after our relinquishment of extraterritorial jurisdiction over Americans, against the manner in which jurisdiction over Americans is exercised by the Chinese authorities. In these cases the chief means of protection will be through representations to the Chinese authorities by the consular officers. After abolition of extraterritorial rights, the Chinese, both the public and officials, may be expected to overlook the fact that both by treaty and by international law it is the right and duty of consular officers to protect the interests of their nationals, and, if the question is not left provided for as suggested by the Department, the Chinese may attempt to hamper the efforts of consular officers to protect their nationals. No matter what provisions we devise, the Chinese probably will attempt to do this, but it is believed that the American draft of article 19, plus the exchange of notes, as suggested by us, would make the American position stronger than would article 19 of either the American or the British draft, minus the exchange of notes. In this connection, the Legation in its 237, April 25, 4 p. m.⁵⁵ reported the threat by the Chinese authorities at Mukden to jail the German Consul who was attempting to afford protection to a German

⁵⁵ Not printed.

national charged with allegedly violating the consumption tax regulations.

(4) Therefore, the Department expects to discuss this matter with C. C. Wu.

STIMSON

793.003/688 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, May 19 [20], 1931—7 p. m.

44. For the Minister. Your May 19, 9 a. m., from Nanking, paragraph 7.

The Department desires to be informed of the approximate boundaries of the municipal areas at Shanghai, Tientsin, Hankow, and Canton to be shown on the maps which the British intend to submit with Article 16. If possible, give outline by telegram and details by mail despatch.

STIMSON

793.003/676½

*Memorandum by the Minister in China (Johnson)*⁵⁶

NANKING, May 21, 1931.

In the course of conversation today Dr. C. T. Wang, Minister for Foreign Affairs, inquired of me as to the attitude of the American Government toward the payment of Chinese taxes by American citizens. I told Dr. Wang that our attitude was one of willingness that our citizens should pay as a voluntary contribution the usual taxes that are collected in the municipalities and other places on land and houses for the purpose of building roads, maintaining streets and giving police and fire protection.⁵⁷ Dr. Wang stated that the British were prepared to have their people submit themselves to the payment of Chinese taxes. He said that he was going to raise this question shortly, particularly as regards the interior of settlement and concession areas. He remarked that this question of taxation was probably the most important one insofar as "die-hardism" was concerned and expressed the feeling that once foreign citizens resident in the International Settlement and foreign concessions had to pay Chinese taxes "die-hardism" would vanish.

NELSON TRUSLER JOHNSON

⁵⁶ Copy transmitted to the Department by the Minister without covering despatch; received July 9.

⁵⁷ See also pp. 981 ff.

793.003/695 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 23, 1931—10 a. m.

[Received May 23—9:25 a. m.]

No maps have as yet been introduced into this discussion. British Minister showed me yesterday a Chinese municipality land office map of the area of the municipality of Greater Shanghai which covers a large amount of territory outside of and surrounding the Chinese city of Shanghai, the International Settlement, extending from the Woosung forts quite a distance up the Whangpoo River. We both feel that area thus defined would be suitable definition of reserved area of Shanghai. It is impossible accurately to describe boundaries in a telegram. I am asking Shanghai to obtain copies and forward them immediately. British Minister also showed me a similar map of the Tientsin area which was deficient only in that it did not include Tientsin race track and foreign homes in that immediate neighborhood. When final discussion comes it will be necessary to add to that map. British Minister had no maps of either Hankow or Canton areas. I am instructing Hankow, Tientsin, and Canton to obtain and forward to me at once authoritative maps of municipal areas at those places which I shall send at once to the Department.

JOHNSON

793.003/693 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, May 23, 1931—11 a. m.

[Received May 23—4:42 a. m.]

Your 43, May 20, 6 p. m., to Nanking. Lampson and I both agreed that an exchange of notes along the suggested lines of the Department, if obtainable, would be very desirable.

JOHNSON

793.003/696 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 24, 1931—9 a. m.

[Received 10:30 a. m.]

British Minister handed to me the following draft of article 21 on duration of the treaty which has been accepted by the Chinese and has been communicated to London for approval.

"Article 21. The present treaty shall as from the date of its coming into force, except as otherwise provided in articles 2, 3 and blank, be mutually and reciprocally binding for a period of blank years, at the end of which period the treaty may, in response to the demand of either party made 6 months prior to the expiration of the period, be revised by negotiation between the parties thereto. If no agreement is reached in regard to such revision within this period, the treaty shall become null and void. Should neither party demand such revision, the treaty shall continue in force, provided however that any time after the expiration of the said period either party may notify the other of its desire to revise or terminate the treaty, which shall then, if no agreement is reached in regard to revision or if notice [to] terminate is given, as the case may be, become null and void 6 months after the date of such notification. It is understood that the provisions in existing treaties abrogated under article 19 of the present treaty will not be revived upon its termination."

Following additional paragraph to be added to article 2.

"The arrangements in connection with the Special Chambers to be established by the Chinese Government shall remain in force for such period as the Chinese Government may deem appropriate, not being less than blank years."

Following additional paragraph to be added to article 3.

"The arrangements in connection with the legal counselors to be appointed by the Chinese Government shall remain in force for such period as the Chinese Government may deem appropriate, not being less than blank years."

I understand that term of treaty which Minister is going to insist upon will be 10 years, while term of special provisions will be 5. These periods have not as yet been acceptable to the Chinese.

JOHNSON

793.003/703 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 26, 1931—noon.
[Received May 26—10:15 a. m.⁵⁸]

My May 25, 2 p. m.⁵⁹

1. As the result of long discussion yesterday morning British Minister and Dr. Wang reached an understanding which British Minister has reduced to following draft article and which he has presented to Wang this morning and telegraphed to his Government.

Subjects of His Majesty in the area of greater Shanghai, as shown on the attached map, shall not be amenable to the jurisdiction of the

⁵⁸ Telegram in three sections; sec. 3 not printed.

⁵⁹ Not printed.

Chinese courts during a period of 10 years from the date of the coming into force of the present treaty, provided always that a settlement of the question of jurisdiction in the said area may be reached by negotiation and agreement between the two high contracting parties at any time after the expiry of 5 years from the same date. Subjects of His Majesty in the area at Tientsin shown on the attached map shall not be amenable to the jurisdiction of the Chinese courts during the 5 years from the date of the coming into force of the present treaty. Subjects of His Majesty in the areas above stated shall be liable for the payment of Chinese taxation as provided in article 6 of the present treaty, provided such taxation is equally paid by Chinese citizens and other foreign nationals in the said areas.

Exchange of notes. His Majesty's Minister to the Minister for Foreign Affairs:

[“]Sir, with reference to article 16 of the treaty concluded between us today, I have the honor to inform Your Excellency that His Majesty's Government in the United Kingdom are prepared to support immediate negotiations for a solution of the question of the extra-Settlement roads at Shanghai subject to satisfactory arrangements being made in regard to the policing and maintenance of the said roads and the payment [of] rates and provisions of municipal services in the areas in question. I have further the honor to declare that His Majesty's Government in the United Kingdom are prepared to enter immediately into negotiations for the rendition of the British Concession at Canton on the understanding that all public and private property rights and interests will be duly safeguarded in the terms of such rendition.

I have the honor to request Your Excellency's confirmation of my understanding that the jurisdiction of the British courts in the areas specified in article 16 above will continue in force as long as subjects of His Majesty, in the said areas, are not amenable to the jurisdiction of the Chinese courts; and further that under the provisions of article 18 of the treaty subjects of His Majesty resident in areas in China in which Chinese administrative jurisdiction does not at present apply will enjoy under such exemptions from Chinese jurisdiction as may be enjoyed by the nationals of any country.”

Minister for Foreign Affairs to His Majesty's Minister:

“Sir, I have the honor to acknowledge receipt [of] Your Excellency's note of today's date which reads as follows (here follows note in full).

I have the honor to take due note of Your Excellency's declarations and to confirm your understanding quoted above as correct.”

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793.003/710

Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs of a Conversation Between the Chief of the Division (Hornbeck) and the Chinese Minister (C. C. Wu)

[WASHINGTON,] May 27, 1931.

Dr. C. C. Wu and Mr. Weigh ⁶⁰ called this morning by appointment and resumed discussion of extraterritoriality.

Dr. Wu stated that he was prepared to make another proposal in regard to the question of excluded areas. He said that the Chinese Government could not agree to the exclusion of four areas but was prepared to agree to the exclusion for a period of three years of an area at Shanghai to be shown on a specially prepared map but which, for the purpose of description, might be designated as "Greater Shanghai" provided that we were prepared to enter into negotiations in regard to the extra-Settlement road question at Shanghai.

Mr. Hornbeck then informed Minister Wu that he understood that negotiations were already under way at Shanghai between the Chinese and the Settlement Municipal Authorities in regard to the extra-Settlement road question. Minister Wu replied that he was not aware of this.

Mr. Hornbeck then inquired if the Chinese Government expected the negotiations in regard to the extra-Settlement road question to be concluded before the new Treaty went into effect. After some discussion of the point it appeared that this was what the Chinese Government desired.

There ensued a discussion of principles in regard to the question of excluded areas at the conclusion of which Dr. Wu stated he hoped we would give him a reply, at our convenience, to the proposal which he had made.

It was arranged, however, for Mr. Weigh and Mr. Jacobs to meet together for the purpose of re-drafting some of the Articles of the Department's draft of April 27, 1931. Mr. Hornbeck mentioned in this connection that there was one new matter which he would suggest that Mr. Jacobs discuss with Mr. Weigh, namely, the drafting of a provision in regard to the rights and privileges of consular officers after the relinquishment of extraterritorial rights.

Mr. Weigh and Mr. Jacobs arranged to meet tomorrow afternoon, May 28, to begin their re-drafting.

⁶⁰ Ken-Shen Weigh, Third Secretary of the Chinese Legation.

793.003/705

*The Under Secretary of State (Castle) to the British Ambassador
(Lindsay)*

WASHINGTON, May 27, 1931.

MY DEAR MR. AMBASSADOR: Referring to the summary of recent correspondence between His Majesty's Principal Secretary of State for Foreign Affairs and the British Minister to China in regard to extraterritoriality negotiations, dated May 19, 1931, which you were so good as to hand to me on May 20,^a I am pleased to say that the views expressed in this summary are substantially in accord with the views of the Department of State.

The Department notes with particular interest the statement of the position of the British Government as found in the penultimate paragraph of the summary, as follows:

"While His Majesty's Government would if necessary countenance a Treaty reserving only Tientsin and a wide Shanghai area, an offer to surrender Hankow and Canton should only be made as a final step in securing a Treaty which the Chinese Government would definitely accept. His Majesty's Government would not wish to put themselves in the position of having offered to surrender Hankow and Canton without having at the same time secured a definite treaty containing adequate safeguards."

With this view the Department of State finds itself in complete concurrence.

With the summary under reference before it, the Department has drafted a new formula which it has been on the eve of submitting simultaneously through your Embassy to the British Foreign Office for consideration and by telegram to the American Minister to China for consideration in conference with Sir Miles Lampson, which it hoped might be deemed worth proposing to the Chinese, providing for the reservation of all four of the areas which have been under discussion.

However, the Department is just now in receipt of telegrams from the American Minister to China which indicate that Sir Miles Lampson has proposed to the Chinese Minister for Foreign Affairs a formula with regard to reserved areas which cannot but disclose to the Chinese that the British negotiators are prepared to dispense with the reservation of Hankow and Canton.

Under these circumstances, the Department abandons its intention to submit for present consideration a new formula designed to effect reservation of the four areas and expresses the hope that, in having proposed to the Chinese, though tentatively, a formula which involves

^a Not printed.

the non-reservation of Hankow and Canton, the British negotiators will have, at the same time, obtained from the Chinese negotiators a commitment to a definite treaty containing adequate safeguards.

I am [etc.]

W. R. CASTLE, JR.

793.003/708 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 29, 1931—11 a. m.
[Received May 30—6:10 a. m.⁶²]

1. I now have before me complete text of Sino-British treaty with the exception of article 22 on ratification which is yet to be agreed upon. This text represents all that has been agreed to between Sino-British negotiators. Having compared it with Department's draft of April 27 I have following comments to make.

2. Article 1. Opening words of Department's draft appear below. I suggest use of following from British text:

"Except as otherwise provided by the present treaty nationals of the United States of America shall as from its coming into force be entitled to the protection, et cetera."

3. Article 3. In paragraph 5 of this article American text reads "and at their discretion shall bring such observations to the notice of, et cetera." British text reads "and at the request of any of the interested parties shall bring such observations to the notice of, et cetera."

4. Article 18. Excluded areas. Text of British article in regard to this question as worked out between British Minister and Wang and referred to British Government for approval now reads:

"(1) Subjects of His Majesty in the areas of greater Shanghai, as shown on the attached map, shall not be amenable to the jurisdiction of the Chinese courts during the 5 years from the date of the coming into force of the present treaty. It is agreed that discussions will be entered into within the said period of 5 years on the subject of the arrangements to be made at the end of the said period. In the absence of a settlement of the question of jurisdiction by negotiation and agreement between the two high contracting parties at any time after the expiry of the said 5 years, subjects of His Majesty shall not become amenable to the jurisdiction of the Chinese courts until the expiry of 10 years from the coming into force of the present treaty.

(2) Subjects of His Majesty in the area at Tientsin, shown on the attached map, shall not be amenable to the jurisdiction of the Chinese courts until the expiry of 5 years from the date of the coming into force of the present treaty.

(3) Subjects of His Majesty in the areas above specified shall be liable for the payment of Chinese taxes as provided in article 6 of the present treaty, provided such taxation is equally paid by Chinese citizens and other foreign nationals in the said areas."

⁶² Telegram in three sections.

In this connection please see my telegram May 27, 5 p. m.⁶³

5. Blanks in British article 21 communicated in my May 24, 9 a. m. now filled in as follows:

Blank, article 16; second blank, period of 10 years. Blank in additional paragraph to article 2 is 5 years and in additional paragraph to article 3, 5 years.

6. Agreed minute of interview which is not to be published contains following additional matter:

"Referring to the declaration attached to the treaty to the effect that the Chinese courts will ensure to the persons and property of subjects of His Majesty due protection in accordance with international law and the general practice of nations, Dr. Wang assured Sir Miles Lampson that it was to be understood that the said Chinese courts assuming jurisdiction over subjects of His Majesty would be strictly immune from external interference by any nonjudicial authority.

Dr. Wang informed Sir Miles Lampson, with reference to clause 5 of article 5 of the treaty, that it was of course to be understood that the courts would not intentionally discourage such applications by unnecessarily imposing the maximum fine.

Referring to clause 2 of article 14 of the treaty, Dr. Wang assured Sir Miles Lampson that it was to be understood that where such cases were dealt with outside the jurisdiction of the Chinese courts they would be dealt with by the competent courts of His Majesty."

(Article 14 of British treaty is personal status article)

JOHNSON

793.003/709 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, May 30, 1931—noon.
[Received May 30—11:15 a. m.]

Your 52, May 28, 6 p. m.⁶⁴

1. British Minister is still waiting for reaction of his Government to text of article regarding excluded areas as finally agreed upon here and reported to the Department in my May 29, 11 a. m. and as to suggested exchange of unpublished notes whereby both Wang and British Minister agree to accept and sign this as well as other articles subject to approval by both Governments.

2. I shall say nothing to Wang about the matters but shall now await initiative on his part or further instructions from the Department. I agree that in the present posture of Chinese political situation it is probably better for us to pursue quietly course outlined in the

⁶³ Not printed.

Department's 49, May 27, 5 p. m. to Nanking⁶⁵ leaving question of reserved areas without any commitment whatever on our part and awaiting Chinese initiative.

3. Senator Pittman is due in Shanghai on Tuesday June 2nd. I therefore, propose to shift files and staff to the Legation offices, Shanghai, Monday night. Unless otherwise instructed I propose to remain in Shanghai for the month of June. I can at all times reach Nanking in 7 hours by train should necessity arise. And I can easily be at the disposal of Senator Pittman who I believe proposes to spend the month of June in or near Shanghai.

4. British Minister has asked his Government for instructions by Monday June 1st. He hopes to leave Nanking for Peiping, Thursday evening, June 4th.

JOHNSON

793.003/730

Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs of a Conversation With the Third Secretary of the Chinese Legation (Weigh)

[WASHINGTON,] June 2, 1931.

Mr. Weigh and Mr. Jacobs met again on the afternoon of June 1, 1931, from 2:30 to 5:30, to continue their re-drafting of the Department's draft of proposals of April 27, 1931, in regard to extraterritoriality.

They completed their work of re-drafting but each party desires to study the re-drafts and within the next couple of days let the other know of any further desirable changes.

As the re-drafts now stand, there are several unfinished and controversial points as follows:

Article II: Special Chambers.

Paragraph 1. The period of years during which the Special Chambers shall function still remains "(Blank)". According to Minister Johnson's telegram of May 29, 11 a. m., paragraph 5, the Sino-British negotiators have agreed upon "five years".

Paragraph 2. The last sentence of this paragraph provides for the hearing in the Special Chambers of cases arising within the jurisdiction of those Chambers involving Americans as plaintiffs or complainants. This provision does not appear in the accords reached by the Sino-British negotiators and Mr. Weigh insists that he is under instructions to have it deleted from our draft. Mr. Jacobs declined to agree to the deletion. Since the British have not secured this pro-

⁶⁵ Not printed; it reported substance of the conversation covered in memorandum of May 27, 1931, p. 806.

vision in their draft it will probably be necessary for us to drop this provision, using it as a trading point in return for some other concession.

Article III: Legal Counselors.

Paragraph 1. The period of years during which the Legal Counselors are to be employed still remains "(Blank)". According to Minister Johnson's telegram of May 29, 11 a. m., paragraph 5, the Sino-British negotiators have agreed upon "five years".

Article XV: Personal Status Matters.

Mr. Weigh insists that we include a reciprocity clause in regard to personal status matters, in spite of the fact that Mr. Jacobs explained to him that, on account of the differences in the laws of our several states, it was impossible for the American Government to grant reciprocity. Mr. Jacobs also pointed out that we were granting reciprocity in regard to forced loans and in regard to the settlement of commercial controversies by arbitration, concerning which matters the British were not prepared to grant reciprocity. These arguments failed, however, to overcome Mr. Weigh's insistence that we must grant reciprocity in regard to these matters.

Article XVI: Non-Discriminatory Treatment.

Mr. Weigh insists that we must add a clause granting general reciprocal treatment for Chinese in the United States. Mr. Jacobs mentioned the same reasons and argument referred to above in the case of personal status matters, but Mr. Weigh stated that he could not accept the Article without a reciprocity clause for Chinese in the United States.

Article XVIII: Reserved Areas.

As this is the principal obstacle in the way of a successful termination of our negotiations, no effort was made to re-draft this Article.

Article XIX: Provisions of Existing Treaties.

Our draft of this Article reads: "Except as superseded or modified by the provisions of the present Treaty, the provisions of existing treaties shall remain in force."

Mr. Weigh insists that this Article read as follows: "The provisions of the existing treaties by the High Contracting Parties which are in conflict with the present Treaty are hereby abrogated."

The latter phraseology is that used by the Sino-British negotiators but is unacceptable to us because we expect to exclude certain areas from the scope of the application of the new Treaty and if conflicting provisions in existing treaties are "abrogated" there may be some confusion about the continuance of the jurisdiction of American courts in the excluded areas.

Article XX: Duration and Ratification.

Paragraph 1. The place where the exchange of ratifications is to take place still remains "(Blank)". We shall have to determine whether it will be Washington or Nanking.

Paragraph 2. The period of the duration of the Treaty still remains "(Blank)". According to Minister Johnson's telegram of May 29, 11 a. m., paragraph 5, the Sino-British negotiators have agreed upon "ten years".

Exchange of Notes:

Mr. Weigh states that the Sino-British negotiators have agreed to include in an Agreed Minute, not for publication, the provision in regard to lawyers not being required to speak the Chinese language and to possess diplomas from Chinese law schools, and in regard to the employment of one British Legal Counselor. We have insisted all along in our draft that there be no "Agreed Minutes", or "Unpublished Exchange of Notes": Hence, these provisions in our draft would be published. Mr. Weigh states that according to his instructions the Chinese Government will not agree to this.

Titles of Articles:

Mr. Weigh has suggested that, when the final draft is prepared, all titles to Articles, both in the Treaty and in exchange of notes, be deleted. He pointed out that they did not now appear in the Sino-British draft. There is no objection to the deletion of these titles as they have been used all along for the purpose of reference in our exchanges of telegrams with the Minister and with the British Foreign Office.

793.003/711a : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

[Paraphrase]

WASHINGTON, June 3, 1931—5 p. m.

For the Minister: During the redrafting of articles in the Department's April 27 draft proposals, Mr. Weigh of the Chinese Legation endeavored to revise in the exchange of notes the provision regarding the Chinese legal counselor in order to give him "the same functions as the foreign legal counselors." According to Weigh's information, he stated that the Chinese-British negotiators have arrived at such an accord as to this point. Since the Department has understood that the Chinese legal counselor was desired for the sake of

liaison, will you please ask the British negotiators and report whether the statement by Weigh is correct.

STIMSON

793.003/712: Telegram

The Minister in China (Johnson) to the Secretary of State

SHANGHAI, June 4, 1931—2 p. m.

[Received June 4—9:45 a. m.]

Department's June 4 [3], 5 p. m., my May 29, 11 a. m. Referring to the complete text of Sino-British treaty the concluding paragraph of text of declaration on the subject of legal counselors reads as follows:

"I have further the honor to declare that among the legal counselors above referred to there will also be included one legal counselor of Chinese nationality to be similarly selected and appointed from among Chinese legal experts possessing the same training, qualifications and experience and that this Chinese legal counselor will have the same functions as the other legal counselors."

JOHNSON

793.003/733

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Chinese Minister (C. C. Wu)

[WASHINGTON,] June 6, 1931.

Dr. Wu referred to the proposal which he had made in his last preceding conversation with Mr. Hornbeck, with regard to the exclusion of a Greater Shanghai area, and that only, from the operation of provisions of the treaty on extraterritoriality, and he wished to know whether Mr. Hornbeck could give him an answer. Mr. Hornbeck said that he would prefer to refrain from discussion of excluded areas until the problems of text, upon which Mr. Jacobs and Mr. Weigh have been working, are disposed of, but that he could say, for the moment, that we adhere to the view which we have all along expressed, that the exclusion of areas at four ports is advisable and desirable; he said that we wish, as from the beginning, to make a treaty which will diminish rather than increase the difficulty of the many problems which are inherent in the great constant problem of contacts in China between foreigners and Chinese.

Dr. Wu said that he had heard "from a reliable source" that the British do not really consider it important to exclude any area other than one at Shanghai and that they are using the other three ports for bargaining purposes. He inquired whether Mr. Hornbeck had

been informed on this point. Mr. Hornbeck said that, if such were the case, the British Government would not be likely so to inform either this Government or anybody else and that such a view, if advanced, must be somebody's statement of opinion rather than an authoritative statement upon which reliance could be placed. He said that he could not imagine the British attaching no importance to what happened at Tientsin, Canton and Hankow. He said that we all know that there is such thing as bargaining—even in connection with conceding of points which ought not to be conceded, but that, quite aside from all such questions, the important thing is: what arrangements may reasonably be expected to improve the situation which is being dealt with? He said that, of all the arguments presented by Dr. Wu in their last conversation, the only one which seemed to him to carry weight in relation to the matter of four rather than one reserved areas was that the Chinese Government would be able to say to the Chinese people, on a basis of one rather than four, that it had scored a greater success in the negotiations. This, however, was a problem largely of how the matter might be presented by the Chinese Government. To him, the facts in the situation support overwhelmingly the opinion that there should be four reserved areas. Reverting to the question of procedure, he would suggest that the points on which Mr. Jacobs and Mr. Weigh have not yet agreed be considered by Dr. Wu, and Dr. Wu's and his efforts be directed toward completion of the text with the exception of the article on reserved areas. Dr. Wu said that this would be agreeable to him.

793.003/718: Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

SHANGHAI, June 8, 1931—1 p. m.

[Received 10:45 p. m.]

My telegrams of May 24, 9 a. m.; May 26, noon; May 27, 5 p. m.;⁶⁶ May 29, 11 a. m.; and May 30, noon.

Lampson informs me confidentially that he met C. T. Wang on June 5 after receiving instructions from home authorizing his signature of the proposed exchange of letters with Dr. Wang, on condition the latter accepted a new version of article 21 of the British draft (I refer to my May 24, 9 a. m.). Acceptance of the British Foreign Office draft of article 21 was refused by Dr. Wang, and Lampson thereupon agreed to some alterations in it to make it ac-

⁶⁶ Telegram dated May 27, 5 p. m., not printed.

ceptable to the Foreign Minister, subject naturally to final approval by both British and Chinese Governments. When this was agreed to, Lampson and Wang signed and exchanged the letters on June 6. Lampson tells me he has no idea as to his Government's reaction concerning the new draft of article 21, now referred to London, but he was unable to obtain all the British Government desired from Wang, while Lampson's action was in any case subject to the ultimate confirmation of both Governments, as the exchanged letters stated.

With the above accomplished, I understand Lampson departed on June 7 at 6 a. m. by airplane from Nanking for Peiping and will not return without such instruction or unless it is possible to sign a treaty.

So far I have not yet received the final drafts of the exchanged letters or of article 21, as accepted by Lampson. As soon as I receive them, they will be communicated to the Department.

JOHNSON

793.003/720 : Telegram

The Minister in China (Johnson) to the Secretary of State

SHANGHAI, June 8, 1931—4 p. m.
[Received June 11—9:20 a. m.⁶⁷]

My June 1 [8], 1 p. m.

1. Following are texts of letters exchanged and article 21. Please keep confidential.

2. (a) "Nanking 6th June, 1931.

My Dear Doctor Wang: With reference to our recent conversations, I should be glad to receive your confirmation that the draft treaty in 22 articles and preamble and attached documents marked 'A' to 'I', concerning the readjustment of matters relating to jurisdiction over subjects of His Majesty in China, copies of which were exchanged between us today and which I am now referring for confirmation to His Majesty's Government, are acceptable to you as they are to me. (Signed) M. W. Lampson."

(b) "Waichiaopu (Ministry of Foreign Affairs). The Republic of China, Nanking, 6th June, 1931.

My Dear Sir Miles Lampson: In reply to your letter of today's date on the subject of the draft treaty in 22 articles, preamble, and attached documents marked 'A' to 'I', relating to jurisdiction reserve over subjects of His Majesty in China, copies of which were exchanged between us today, I have the honor to inform you that the said draft of convention treaty and attached documents are acceptable to me and are being submitted to my Government for confirmation. Sincerely yours. (Signed) Chengting T. Wang."

⁶⁷ Telegram in two sections.

(c) "Article XXI.

(1) The present treaty shall be binding during a period of 10 years from the date of its coming into force.

(2) Notwithstanding the provisions of paragraph 1 of this article, the provisions of article II of the treaty relating to the Special Chambers to be established by the Chinese Government and those of article III relating to the legal counselors to be appointed by the Chinese Government shall remain in force for such period as the Chinese Government may deem appropriate, not being less than 5 years.

(3) Either of the high contracting parties may demand that on the expiration of the said period of 10 years the provisions of the treaty shall be revised. Notice of such a demand shall be given at least 12 months before the expiration of the said [period] of 10 years and negotiations shall thereupon be entered into for the purpose of effecting such revision. If no agreement is reached in regard to such revision within this period the treaty shall become null and void.

(4) In case neither of the high contracting parties shall have given notice at least 12 months before the expiration of the period of 10 years of his intention to terminate the treaty, it shall remain in force subject to 12 months notice of termination by either party at any time after the expiry of the first 10 years' period.

[(d)]. "Article XXII.

(1) The present treaty shall be ratified by the high contracting parties in accordance with their respective constitutional methods.

(2) The ratifications shall be exchanged at Nanking.

(3) The present treaty shall come into force as soon as the ratifications of His Majesty the King of Great Britain, Ireland and the British Dominions Beyond the Seas, Emperor of India, in [apparent omission] of each and all the members of the League of Nations as enumerated in the preamble of the treaty, and of His Excellency the President of the National Government of the Republic of China, shall have been exchanged."

JOHNSON

793.003/729 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

[Paraphrase]

LONDON, June 12, 1931—3 p. m.

[Received June 12—12:05 p. m.]

184. My 181, June 11, 1 p. m.⁶⁸ The Foreign Office states that Nelson T. Johnson has been kept informed of Lampson's treaty negotiations, except possibly that C. T. Wang, when he agreed personally to the draft proposal of the Tientsin reservation, was not optimistic at all as to its approval by his Government. Correspondingly, in

⁶⁸ Not printed; it reported the Lampson-Wang tentative agreement, June 6, on the text of a treaty.

agreeing personally to a 10-year duration of the treaty, Lampson pointed out specifically his lack of instructions from his Government on this highly mooted point. The Foreign Office views obviously with concern the status of British residents in the case of the treaty safeguards and the Shanghai reservations being conterminous.

ATHERTON

793.003/731 : Telegram

The Minister in China (Johnson) to the Secretary of State

SHANGHAI, June 13, 1931—11 a. m.

[Received June 13—2:11 a. m.]

I have just received a telegram from Peck at Nanking stating that Minister of Foreign Affairs has sent to him a formal note of which the following is substance:

“Formal note from the Chinese Ministry of Foreign Affairs announces that Minister Wu has resigned, that it is inexpedient that extraterritoriality negotiations be interrupted, and the proposal is made that the negotiations be continued in Nanking between the Chinese Minister for Foreign Affairs and the American Minister with a view to the early termination of the negotiations. Note requests that you inform your Government and send a reply.”

[Paraphrase.] Dr. C. T. Wang in a personal note asked Peck to telegraph me to return to Nanking as soon as convenient. From this I assume the Foreign Minister will propose concluding with me an arrangement which is similar to the one with Sir Miles Lampson. I shall wait in Shanghai for the Department's instructions as to what I am to do in the matter. [End paraphrase.]

JOHNSON

793.003/731 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

[Paraphrase]

WASHINGTON, June 16, 1931—5 p. m.

For the Minister: Your June 13, 11 a. m., from Shanghai.

(1) The Department wishes you to telegraph the full text, or important sentences, of C. T. Wang's formal note proposing transfer to Nanking of the negotiations.

(2) With reference to Dr. Wang's request in his personal note to Peck, it is desired by the Department that you go back to Nanking and give Wang a chance to indicate what he has in mind.

(3) Points to guide you: The Department thinks it advisable to proceed slowly in this connection because of diplomatic considerations and in view of the Chinese domestic political and administrative situation. While realizing the probability that we will not be able to conclude a better treaty as to substance than the British, the Department finds the arrangements agreed to between Lampson and Wang to be in their entirety not such as the Department would wish to duplicate. In relation to the American treaty the Department would not wish to have any unpublished notes or agreed minutes. In certain provisions for reciprocity the Department cannot parallel the Lampson-Wang text. The apparently complicated provisions as to Hankow and Canton are not viewed with favor by the Department, which also feels that at a number of points greater precision is desirable. It is the Department's wish to avoid any move which might allow Dr. Wang to bring pressure to bear upon the British Foreign Office to give its approval hastily. The Department itself does not intend to be rushed. It therefore feels that we should avoid appearing to approve the Wang-Lampson text and should continue to stand aside and to persevere in the course which we have taken during recent weeks. The Department furthermore believes it would be advantageous to all concerned for the treaty discussion at Nanking to be suspended for a few weeks. This would enable you to be absent as you had planned (your June 11, 3 p. m., from Shanghai ⁶⁹) and would leave C. T. Wang free to concentrate his attention elsewhere.

(4) Hence the Department desires you to say to Dr. Wang that it requests him to instruct the Chinese Legation in Washington to continue its work on the draft with the Department, as Weigh and Jacobs have been doing. It should be explained by you that there are being submitted currently to our law officers the alterations in our drafts as made by Jacobs on the basis of his conferences with Weigh and that the result will be telegraphed you for your consideration when the draft has been completed with exception of the reserved areas. C. T. Wang probably will tell you what he and Lampson have agreed upon *ad referendum*. You should say to him that you will report to the Department and that, since doubtless some time will be required for consideration at Washington of the whole set-up, you desire to proceed to Peiping for a few weeks and are requesting the Department's permission to do this.

(5) The Department wishes to have your comments on its views expressed in the foregoing and on the remarks made by Dr. Wang when you see him.

STIMSON

⁶⁹ Not printed.

793.003/734 : Telegram

The Minister in China (Johnson) to the Secretary of State

SHANGHAI, June 17, 1931—4 p. m.

[Received June 17—11 a. m.]

1. Your June 16, 5 p. m. Following are texts of formal note and personal letter to Peck.

2. "June 12, 1931.

Excellency: With reference to the subject of extraterritorial jurisdiction now pending between China and the United States, I have the honor to observe that the discussions between Dr. C. C. Wu, Chinese Minister in Washington, and the Department of State have been in progress for a long time. Minister Wu has on today's date resigned his office and as it is inexpedient that the consultations in regard to the matter of extraterritorial jurisdiction should be interrupted, I have the honor to propose that I, Minister for Foreign Affairs, continue them with you, Mr. Minister, in Nanking, with a view to their progress and early conclusion.

I have the honor to request that you transmit the contents of this note to your Government for its information and action. I request also the honor of a reply. (Signed) Chengting T. Wang. Seal."

3. "June 12, 1931. Personal.

My Dear Mr. Peck: As our Dr. Wu has resigned from his post in Washington, I am anxious to carry on our negotiations with your Government on the question of extraterritoriality. Besides sending to Mr. Johnson our formal document on the matter, may I request you to wire him to return to the capital as soon as convenient for him to do so?

With regards, yours sincerely, (Signed) Chengting T. Wang."

4. I shall leave here Friday night for Nanking and will be there Saturday morning.

JOHNSON

793.003/750½

*Memorandum by the American Minister in China (Johnson) of a Conversation With the Chinese Minister for Foreign Affairs (C. T. Wang)*⁷⁰

SHANGHAI, June 20, 1931.

I saw Dr. Wang today and told him that I had communicated to my Government his letter to me of June 12th⁷¹ requesting that negotiations in regard to extraterritoriality be transferred to China and completed here in view of the resignation of the Chinese Minister at Washington. I told him that my Government, in reply to this request,

⁷⁰ Copy transmitted to the Department by the Minister without covering despatch; received July 24. Substance reported by the Minister in his telegram of June 20, 3 p. m., from Shanghai; received June 21, 10:10 a. m. (793.003/736)

⁷¹ See *supra*.

indicated a desire that the discussions now going on in Washington between Mr. Jacobs and Mr. Wei ⁷² of the Chinese Legation should be permitted to continue until the texts regarding general guarantees had been completed. It was my Government's idea that they would complete discussions of everything except the question of reserved areas and that when the texts had been agreed upon there they would be referred to me for discussion with him. I said I thought that in the meantime I would return to Peiping and come to Shanghai later on to complete this matter with him.

Dr. Wang at first stated that he preferred to have the whole matter brought here but when I explained to him that the Department is referring all matters to the law officers of the Department and that I thought it would save a good deal of time if we could have these matters thrashed out there before referring them out here he stated that he was willing to do this and that he would give the necessary instructions. He asked me when I thought the documents would be here and I told him I thought they would not arrive until the first week in August at the earliest; that I would probably be ready to come down soon after that.

Dr. Wang stated that he wanted to lay all of his cards on the table in regard to the question of reserved areas. He said that the British had first asked for the reservation of Shanghai and Tientsin for a period of ten years, having conceded Hankow and Canton, and that they had ultimately compromised on the question of Shanghai by agreeing that Shanghai should be reserved from Chinese jurisdiction for a period of five years, it being understood that the British and the Chinese might enter into negotiations at any time for the transfer of Shanghai to Chinese jurisdiction, either at the end of the five year period or at any time after the five years had expired and up to ten years; that in case of no agreement Shanghai should be reserved for a period of ten years, then automatically coming under Chinese jurisdiction. As regards Tientsin they had agreed that Tientsin should be transferred to Chinese jurisdiction at the expiration of five years. He said the only reason why the treaty had not been initialled at this time was because of the insistence of the British for the reservation of Tientsin. He said that he had personally agreed to the reservation of Tientsin but he was sure that his Government would not consent. He said he wanted to enter with the American Government, through me, a serious plea that we would not ask for the reservation of Tientsin. He said the reason why the Chinese Government could not consent to the reservation of Tientsin was that it had no international aspect as had Shanghai and that if the Chinese Government consented to its reservation this would leave the door open for the Japa-

⁷² i. e., Mr. Weigh.

nese to demand the reservation of Japanese concessions and the South Manchuria Railway zone, to which the Chinese could never consent.

Dr. Wang also stated that the British, in connection with their agreement, had consented to the taxation of British subjects within the Settlement area at Shanghai on the same basis as the Chinese.

NELSON TRUSLER JOHNSON

793.003/750½

*Memorandum by the American Minister in China (Johnson) of a Conversation With the Japanese Chargé in China (Shigemitsu)*⁷³

SHANGHAI, June 21, 1931.

In the course of a conversation this evening at the home of Mr. Shigemitsu the latter informed me that only recently he had presented to Dr. Wang an outline of the terms under which Japan would consider the relinquishment of its extraterritorial rights in China. He said that this outline followed generally but vaguely the terms which had been worked out between the United States and the British and the Chinese Governments except as regards the questions of residence and trade in the interior and reserved areas. In regard to the first he stated that the terms outlined by them generally followed the recognized provisions of the ordinary commercial treaty on this subject. As regards reserved areas he stated that his Government had avoided the mention of any specific places but had stipulated for the reservation of international settlements, Japanese concessions, the free area at Tsingtao and the South Manchuria Railway zone. He stated that this document was in the Japanese language, as was always the case with important documents, and that for this reason he was unable to give me a translation.

NELSON TRUSLER JOHNSON

793.003/730 : Telegram

The Minister in China (Johnson) to the Secretary of State

SHANGHAI, June 21, 1931.

[Received June 23, 1931 - 10 p. m.]

My June 20, 3 p. m.⁷⁴ Arnold⁷⁵ and I are wondering whether it would not be useful to incorporate in the treaty, either in an article or by exchange of notes, some arrangement covering patents and copyrights.

⁷³ Copy transmitted to the Department by the Minister without covering despatch; received July 24. Substance reported by the Minister in para. 1 and 2 of his telegram of June 23, 1 p. m., from Shanghai, p. 882.

⁷⁴ See footnote 70, p. 879.

⁷⁵ Julian Arnold, Commercial Attaché in China.

As regard copyrights, in recent conversations at the Foreign Office I have found them unwilling apparently to enter into any arrangement which would place our people in China upon a basis similar to that enjoyed by Chinese in the United States. The situation of course is that any denial by us of rights to Chinese in the United States would have like effect on Chinese. Prodigious demand in China for American text and reference books is so great that it profits Chinese to continue present practice of pirating. Linked with extraterritorial negotiations something might be accomplished. Similar situation exists in regard to patents. There is I understand at present a domestic law protecting Chinese patents but under impetus of encouragement of domestic industries infringement of foreign patent rights is condoned.

JOHNSON

793.003/736: Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

[Paraphrase]

WASHINGTON, June 22, 1931—6 p. m.

For the Minister: Your June 20, 3 p. m., from Shanghai, paragraph (3) concerning your plans.⁷⁶

If C. T. Wang appears satisfied, the Department authorizes you to return to Peiping on June 26, but prior to your departure your comments are desired as requested in Department's June 16, 5 p. m., to Shanghai, paragraph (5).

STIMSON

793.003/738: Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

SHANGHAI, June 23, 1931—1 p. m.

[Received June 23—5:20 a. m.]

[Here follows report of conversation based on the Minister's memorandum dated June 21, 1931, printed on page 881.]

(3) From my conversations with the Japanese Chargé, I am of the opinion that his Government will be unyielding insofar as Manchuria is concerned in regard to what is considered to be Japan's position there as legitimized by the treaties of 1915.⁷⁷ Once Shigemitsu stated

⁷⁶ Telegram not printed; par. 3 contained the Minister's request for authorization to leave for Peiping on June 26.

⁷⁷ Signed at Peking, May 25, 1915, *Foreign Relations*, 1915, pp. 171-177.

to me that if only China south of the Great Wall were concerned, this would not be so difficult a matter to solve.

JOHNSON

793.003/740 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

SHANGHAI, June 24, 1931—4 p. m.

[Received June 25—12:59 p. m.]

Department's June 16, 5 p. m., and June 22, 6 p. m.

(1) I told C. T. Wang that I expected to return to Peiping, and he replied he would take advantage of this to have a short holiday himself. He expressed the hope that documents might be received before long from Washington, allowing negotiations to be completed here.

(2) Respecting the Department's views in its June 16, 5 p. m., paragraph (3), I see no reason why at this time we should be rushed. The Chinese Government is in a life-and-death struggle with the Communists and radical groups which now control Kiangsi Province, and I think this will last all summer. If the Government emerges successfully, it will naturally be in a stronger position than hitherto and probably less conciliatory in its mood. If it should fail, I do not see any prospect of a Government as strong, with the grave danger that its failure would be followed by chaos.

(3) The British negotiations in any case have set the line for us to follow.

(4) The complete text of the terms worked out by the British with Dr. Wang is now before the Department. The parts which are to be unpublished are those the Chinese would not agree to include in the published treaty, chiefly for the reason that they were deemed to be derogatory to China's dignity as a nation. Having these texts in hand, the Department can work out with the Chinese Legation a draft and express its views on the text and the terms, to be sent me for final discussion with Dr. Wang.

(5) Regarding the reserved areas, C. T. Wang has been adamant all along. I believe Lampson did his best in this regard, nor have I reason to doubt the sincerity of the reasoning Dr. Wang used with me in stating his attitude regarding Tientsin. In this connection I refer you to my June 23, 1 a. m. [p. m.] on the Japanese terms. Wang argued that he could oppose the placing of Japanese Concessions and their railway zone in the category of Shanghai because the latter was international, while the former pertain only to one nation. Therefore, it is apparent that when the reserved areas come up we will find the

Chinese unwilling to accept even the 5-year period as tentatively agreed to by Lampson and Wang.

(6) I personally believe the reservation of areas by treaty, as tentatively agreed to now, offers little by the way of protection to the larger business interests with agencies beyond Shanghai and Tientsin. Once extraterritoriality is gone outside those areas, the Chinese can always sue such companies outside the reserved areas. There is some argument in favor of reserving Shanghai in order to provide a breathing spell during which there can be reached arrangements to transfer the International Settlement to Chinese jurisdiction, but I feel Tientsin's reservation to be of doubtful value to us.

(7) My arrangement with C. T. Wang is for me to go north for a few weeks, to await there receipt from the Department of all documents agreed to tentatively in Washington, and then to bring them to Nanking for final discussion and agreement. I understand Lampson expects to come south, perhaps early in September, for a final settlement of the Chinese-British treaty.

JOHNSON

793.003/746

Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs

[WASHINGTON,] June 27, 1931.

Mr. Weigh, Third Secretary of the Chinese Legation, and Mr. Jacobs met again by appointment on the mornings of June 26 and June 27, from ten to one o'clock, to revise their draft of proposals of June 2, 1931, in regard to extraterritoriality.

Mr. Weigh stated at the outset that he had been instructed to continue the work of re-drafting with the Department provided that he refrain from discussing the Article in regard to Reserved Areas. The Department had already been informed by minister Johnson in his telegram of June 20, 3 p. m.⁷⁸ paragraph one, that Mr. Weigh would be so instructed.

Mr. Weigh and Mr. Jacobs have now prepared a new draft in which only three points remain unfinished or controversial as follows:

Article XVI: Reserved Areas. No effort was made to re-draft this Article. The question of reserved areas is the one outstanding question which still remains to be settled.

Article XXII: Ratification. The place where the exchange of ratifications is to take place remains to be inserted. It will be either Washington or Nanking.

⁷⁸ See footnote 70, p. 879.

Exchange of Notes: In the exchange of notes as now drafted, which are to be published, there are found four points which Mr. Weigh states the Minister for Foreign Affairs will not agree to have published. It will be necessary, therefore, to decide whether we shall agree, as the British have done, to relegate these points to "unpublished notes" or "agreed minutes" or to make further efforts to have them remain as they stand in our draft. It is believed that we should for the time being adopt the latter course.

The four points referred to are as follows:

- (1) The employment of at least one American Legal Counselor;
- (2) The exemption of American lawyers from certain requirements for practice before Chinese courts;
- (3) The policy to be followed by Chinese courts in commuting the terms of imprisonment in minor cases for fines, and
- (4) The courts outside of China which are to deal with personal status cases.

Mr. Jacobs sought to persuade Mr. Weigh to agree to the incorporation of a joint declaration of a provision with regard to patents and copyrights as suggested by Minister Johnson in his telegram of June 20, 3 p. m. Mr. Weigh stated that he could not agree as he had no instructions on this point. He suggested that we have Minister Johnson discuss this matter with the Minister for Foreign Affairs when our draft comes up for discussion between them.

It is suggested that the Solicitor's Office be asked to examine the draft prepared by Mr. Weigh and Mr. Jacobs and that, after the comments of the Solicitor have been taken into consideration, the draft be mailed to Minister Johnson. About the time it reaches Peiping, Minister Johnson will be ready to return to Nanking to renew discussions with Dr. Wang, the Chinese Minister for Foreign Affairs. In the interim the Department will be considering a draft of Article XVI in regard to Reserved Areas.

J[OSEPH] E. J[ACOBS]

793.003/741 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State

[Paraphrase]

PEIPING, June 30, 1931--1 p. m.
[Received June 30 8:45 a. m.]

379. My May 26, noon, from Nanking.

(1) Lampton informed me today of his Government's general approval of all he had done in the extraterritoriality negotiations at Nanking except for article 16. He is still awaiting his Government's reaction on this question.

(2) He informs me that the British Foreign Secretary will have to make a statement in the House of Commons during the present week regarding the extraterritorial negotiations. The statement is likely to be general in character, with a vague reference to the question of reserved areas. In all probability it will put responsibility for the pause in negotiations upon the Chinese political situation, with specific reference to the Canton crisis.

JOHNSON

793.003/752

Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs

[WASHINGTON,] July 2, 1931.

Mr. Weigh, Third Secretary of the Chinese Legation, called this morning to discuss with Mr. Jacobs Article XIV—Personal Status Matters, and Article XVIII—Non-discriminatory Treatment, as drafted by them on June 26 and June 27, 1931. Mr. Weigh stated that he had received further instructions from his Government in regard to these two Articles.

With regard to Article XIV—Personal Status Matters, Mr. Weigh insisted that a provision be inserted giving Chinese in the United States reciprocal treatment and suggested an additional paragraph to Article XIV as follows:

“Reciprocally, the applicable laws of China relating to matters of personal status as mentioned in the first paragraph of this Article, in so far as they are substantially the same as similar laws of the United States of America or of its territorial possessions, will be applied by the courts of the United States of America or of its territorial possessions as regards nationals of China and the treatment accorded to nationals of the United States of America or their estates or personal effects as provided in the second, third and fourth paragraphs of this Article shall apply also to nationals of China or their estates or personal effects in the United States of America or in its territorial possessions.”

Mr. Jacobs explained to Mr. Weigh, as he had done on several previous occasions, that the enactment of laws in the United States in regard to personal status matters was a State and not a Federal right and remarked that it would serve no useful purpose to incorporate in the proposed new Treaty a provision which we could not enforce and which would thus become a source of friction in the future.

With regard to Article XVIII, concerning which an effort had been made in the draft prepared by Mr. Weigh and Mr. Jacobs on June 26 and June 27 to provide as much non-discriminatory treatment for Chinese citizens in the United States as is possible, Mr. Weigh stated

that the paragraph which we had drafted with this object in view was unacceptable. He stated that his Government wanted complete non-discriminatory treatment. The paragraph to which Mr. Weigh objected is as follows:

"Reciprocally, in all matters for which the present Treaty provides, nationals of China shall be accorded in the United States of America or in its territorial possessions treatment in no way discriminatory as compared with the treatment accorded to the nationals of any other country in so far as such treatment is not in conflict with applicable laws."

Mr. Jacobs again explained to Mr. Weigh, as he did in regard to Article XIV that it was not possible for us to grant complete non-discriminatory treatment in regard to all matters dealt with in the proposed new Treaty. Mr. Jacobs pointed out to Mr. Weigh the fact that our draft was already more liberal than the British draft in that it granted complete reciprocity of treatment in regard to the settlement of commercial disputes by arbitration (Article VII) and in regard to the question of military service and forced loans (Article X).

Apparently, however, Mr. Weigh was under strict instructions from his Government not to yield on these points as he repeatedly stated that he could not concur in any draft which did not provide complete reciprocal and non-discriminatory treatment for China.

Mr. Jacobs informed Mr. Weigh that he would again consult the Department's legal advisers. In making his remarks to Mr. Weigh in regard to the above matters, Mr. Jacobs had in mind the views of Mr. Ward of the Legal Adviser's Office.

793.003/752a

The Acting Secretary of State to the Minister in China (Johnson)

No. 536

WASHINGTON, July 6, 1931.

SIR: Referring to your telegrams of June 20, 1931, 3 p. m.⁷⁹ and of June 24, 1931, 4 p. m., from Shanghai, in regard to the extraterritoriality negotiations between the United States and China, the Department is sending you herewith a copy of a draft which has been prepared in consultation between representatives of the Department and of the Chinese Legation,⁸⁰ together with copies of memoranda, dated June 27, 1931,⁸¹ and July 2, 1931,⁸² prepared by the Department's representative in regard thereto.

⁷⁹ See footnote 70, p. 879.

⁸⁰ Draft not printed; for draft revised as of July 14, see p. 893.

⁸¹ *Ante*, p. 884.

⁸² *Supra*.

The draft is substantially similar to that initialed by the British Minister and the Chinese Minister for Foreign Affairs on June 6, 1931, except that Article XVI—Reserved Areas—remains blank; that four of the points which appear in the Sino-British draft as “unpublished” documents, appear in the enclosed draft in documents which are to be published; and that reference in the exchange of notes to the Chinese Mediation Law of January 20, 1930, has been omitted. There are changes in phraseology and arrangement as will be observed by comparing the two drafts.

The Department’s Legal Adviser is studying this draft and any changes which may be made necessary as a result of his study will be communicated to you later.

The Department intends to give you instructions by telegraph in regard to this draft and in regard to the future course of the negotiations.

Very truly yours,

W. R. CASTLE, JR.

793.003/758

Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs

[WASHINGTON,] July 8, 1931.⁸³

In view of the comments contained in Mr. Ward’s⁸¹ memorandum of July 3, 1931,⁸⁵ on the draft of the Treaty between China and the United States in regard to extraterritoriality prepared by Mr. Weigh, Third Secretary of the Chinese Legation, and Mr. Jacobs of the Far Eastern Division of the Department, of June 27, 1931, revised as of July 2, 1931, Mr. Weigh and Mr. Jacobs met again on the morning of July 7, 1931, to make some changes in their draft. Arranged in the order in which Mr. Ward’s comments appear in his memorandum referred to, these changes are as follows:

(1) *Preamble*: Mr. Ward suggested the substitution of the words “providing for” for “effecting”. Mr. Jacobs and Mr. Weigh decided to re-draft entirely the clause in which the word “effecting” appears. The clause in question now reads “. . . have resolved to conclude a Treaty for the purpose of readjusting matters relating to the jurisdiction in China over nationals of the United States of America, . . .” In discussing this re-draft with Mr. Ward he informed Mr. Jacobs that he preferred this re-draft to his suggestion.

(2) *Article I: Transfer of Jurisdiction*: Mr. Ward suggested that the expression “nationals of the United States shall in China” be

⁸³ The final paragraph of this memorandum was evidently added at a later date.

⁸⁴ Frank X. Ward, Assistant to the Legal Adviser, Department of State.

⁸⁵ Not printed.

changed to read "nationals of the United States in China shall". After discussing this suggestion, Mr. Jacobs and Mr. Weigh decided to leave the draft unchanged, that is, as first quoted. Mr. Ward stated to Mr. Jacobs orally that he had no objections to this expression remaining as it stands in the draft of June 27.

(3) *Article V: Arrest, Imprisonment, Detention and Bail:* Mr. Ward suggested a revision of the fifth paragraph of this Article in regard to bail. Mr. Weigh and Mr. Jacobs finally agreed upon a draft of this paragraph which is a rearrangement of the draft suggested by Mr. Ward as follows:

"Unless the court has reasonable and good grounds to believe that nationals of the United States of America who may be arrested or detained will flee from justice if application for bail be granted, such nationals shall be granted immediate release on bail upon application therefor except when such nationals have been duly charged according to law with the commission of a crime or crimes punishable by death or imprisonment for life in which cases bail may be granted or denied in the discretion of the court. The amount of bail shall be reasonably proportionate to the offense alleged. Such facilities for release on bail shall be granted to appellants until the sentence of the final Appellate Court is given."

(4) *Article XII: Companies:* Mr. Ward suggested that the word "trade" be used instead of the word "business". Mr. Weigh and Mr. Jacobs made this change in their draft.

(5) *Article XVIII: Non-Discriminatory Treatment:* Mr. Ward suggested a revision of the last paragraph of this Article as follows:

"Reciprocally, in all matters for which the present Treaty provides, nationals of China shall be accorded in the United States of America or in its territorial possessions subject to the provision of applicable laws, treatment in no way discriminatory as compared with the treatment accorded to nationals of any other country."

Mr. Weigh in discussing the above again stated, as he did on July 2, 1931 in conversation with Mr. Jacobs, that his Government wanted complete non-discriminatory treatment for Chinese in the United States. He added that he was not in a position to accept anything less and that he would prefer to leave our draft of Article XVIII as it originally stood with only the first paragraph in regard to non-discriminatory treatment of American nationals in China. It was agreed, therefore, to leave their draft of Article XVIII as it originally stood with the one paragraph referred to. It is of interest to note in this connection that the provision of the Sino-British draft in regard to non-discriminatory treatment for Chinese is applicable to the United Kingdom only and not to the Dominions.

(6) *Exchange of Notes in Regard to Immovable Property:* Mr. Ward suggested that the provisions of this note be incorporated in

Article VIII of the Treaty which relates to rights in immovable property. As the point raised by Mr. Ward has already been discussed and as the British negotiators have agreed to the present arrangement, Mr. Weigh and Mr. Jacobs decided to allow this provision to remain in the exchange of notes. As the exchange of notes is to be published simultaneously with the Treaty, it is believed that our rights will be safeguarded.

(7) *Exchange of Notes in Regard to Personal Status Matters*: Mr. Ward called attention to the fact that the reference to Article XV in this note should be to Article XIV. This was a typographical error and has been corrected.

Mr. Ward also suggested that the American negotiators might consider the insertion in the exchange of notes of a provision that American products in China shall be subject to non-discriminatory treatment. As this was entirely new matter, Mr. Weigh did not want to attempt drafting anything in regard to it. His position was the same as that which he took in regard to Mr. Jacob's request that a provision be made in an exchange of notes in regard to the mutual protection of trademarks, copyrights and patents in China and in the United States, namely, that the matter should be discussed at Nanking with the Minister for Foreign Affairs.

While going over their draft of June 27, 1931, Mr. Weigh and Mr. Jacobs made a few changes in punctuation and several minor changes in phraseology. The entire draft as revised has, therefore, been retyped as of July 14, 1931.

793.003/756a : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, July 13, 1931—5 p. m.

228. 1. The Department is mailing to the Embassy at London a memorandum⁸² in regard to Article XVI, Reserved Areas, of the proposed new Treaty relating to the extraterritorial rights of the United States in China, together with the texts of a draft of this Article and of the exchange of notes relating thereto which the Department has under consideration. Pertinent excerpts from this memorandum are as follows:

"The Department of State views with some misgivings the provisions of the draft of Article XVI—Reserved Areas—and of the exchange of notes in regard thereto, as agreed upon between the British Minister to China and the Chinese Minister for Foreign Affairs, as those provisions would permit the new treaty safeguards and reserva-

⁸² Sent under date of July 14, 1931, as enclosure to instruction No. 852 (793.003/756c).

tions with regard to Shanghai to come to an end at the expiration of 10 years without there necessarily having been reached any mutually satisfactory agreement in regard to the important questions involved at Shanghai some of which are not dealt with in the proposed new Treaty. The Sino-British draft referred to provides that negotiations shall be entered into at the end of 5 years from the coming into force of the new Treaty and that, if no agreement is reached as a result of these negotiations, subjects of His Majesty in the Shanghai area shall become, at the expiration of the Treaty, amenable to the jurisdiction of the Chinese courts. Under this provision the Chinese authorities would be able to delay or block the negotiations referred to and other negotiations looking toward the settlement of other outstanding questions at Shanghai, to the end that, at the expiration of 10 years, this area, except in so far as the Shanghai Land Regulations provide otherwise, will fall under Chinese jurisdiction.

The Department of State has prepared a draft of Article XVI and of an exchange of notes in regard thereto, copies of which are attached hereto, which the Department prefers to the Sino-British draft and which it proposes to submit to the American Minister to China with instructions that the Minister endeavor to obtain the assent of the Chinese Minister for Foreign Affairs to this draft.

While both the Sino-British draft of Article XVI and the Department's draft of this Article as referred to above provide for the reservation of an area at Tientsin during a period of 5 years, the Department would be prepared, as a last resort, to give up this reservation in exchange for the assent of the Chinese authorities to that portion of the Department's draft of Article XVI relating to the reserved area at Shanghai. The Department believes, however, that authorization to make this concession should not be given to the American and British negotiators in China until they have exhausted every effort to obtain a reservation in regard to Tientsin.

The Department's draft of Article XVI provides that negotiations for the conclusion of an agreement to alter the status of the reserved area at Shanghai may be entered into at the expiration of 9 years. This period has been chosen because it synchronizes with the 12 months' notice period provided in Article XXI of the proposed Treaty in regard to the period of duration.

The Department of State realizes, particularly in view of the draft which the British Minister and the Chinese Minister for Foreign Affairs have initialed, that the Chinese Government will probably make every effort to oppose the provisions of the Department's draft of Article XVI which seek to reserve the Shanghai area for an indefinite period, depending upon the coming into force of a mutually satisfactory agreement in regard to the questions involved at Shanghai, and that the Chinese Government will probably oppose any attempt to reserve an area at Tientsin. The Department is of the opinion, however, that an effort should be made to obtain these reservations substantially in the form provided in the Department's draft. It is believed that if the Chinese Government is made to realize that the American and British Governments insist upon satisfactory arrangements in regard to Shanghai, the Chinese Government, in the last resort, will not because of their objection to this forego the opportunity to conclude a Treaty which will give them complete jurisdiction in all other parts of China.

The Department of State has been led to believe that the views of the British Foreign Office are substantially in accord with those of the Department as outlined above. The Department would, however, appreciate receiving the comments and suggestions of the Foreign Office with a view to the issuance to the American Minister and to the British Minister to China of instructions that, upon their return to Nanking, they endeavor to obtain the assent of the Chinese authorities to provisions substantially along the lines proposed in the Department's draft of Article XVI and exchange of notes in regard thereto."

2. The texts of the Department's draft of Article XVI and of the exchange of notes in regard thereto are as follows:

"Until the coming into force of a separate agreement to be concluded between the United States of America and China as hereinafter provided, the provisions of the present Treaty shall not be applicable within the area of Greater Shanghai, as shown on the map annexed hereto, to nationals of the United States of America, who, within that area, shall continue to be subject to the jurisdiction and laws of the United States of America and entitled to all rights and privileges accorded by the treaties concluded between the United States of America and China. Negotiations for the conclusion of an agreement to alter the status of nationals of the United States of America in the area of Greater Shanghai referred to above shall, upon request by the Government of China, be entered into at any time after the expiration of 9 years from the coming into force of the present Treaty.

Until the expiration of 5 years from the date of the coming into force of the present Treaty, the provisions of the present Treaty shall not be applicable within the area at Tientsin, as shown on the map annexed hereto, to nationals of the United States of America. Pending the application of the present Treaty within this area at Tientsin, nationals of the United States of America within that area shall continue to be subject to the jurisdiction and laws of the United States of America and entitled to all rights and privileges accorded by the treaties concluded between the United States of America and China.

Notwithstanding the provisions of the two preceding paragraphs, nationals of the United States of America resident in the areas of Greater Shanghai and Tientsin, as shown on the maps referred to herein, shall, from the coming into force of the present Treaty, be subject to taxation by the Chinese Government in accordance with Article VI of the present Treaty; provided, that such taxation shall not discriminate in any way against nationals of the United States of America as compared with Chinese citizens and/or the nationals of any other country."

"Excellency: With reference to Article XVI of the Treaty concluded between the United States of America and the Republic of China, I have the honor to inform Your Excellency that the Government of the United States of America is prepared to support immediate negotiations for a solution of the question of the extra-Settlement roads at Shanghai subject to satisfactory arrangements being made in regard to the policing and maintenance of the said roads and the payment of rates and provisions for municipal services in the

I have the honor to request Your Excellency's confirmation of my understanding that, under the provisions of Article XVIII of the present Treaty, nationals of the United States of America in any of the areas in China in which Chinese administrative jurisdiction does not at present apply shall enjoy such exemptions from Chinese jurisdiction as may be enjoyed by nationals of any country.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration. (signed) American Representative."

"Excellency: I have the honor to acknowledge the receipt of Your Excellency's note of today's date referring to the Treaty concluded today between the Republic of China and the United States of America in which you request my confirmation of your understanding as follows:

(Note to be quoted)

I hereby confirm your understanding quoted above as correct.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration. (signed) Chinese Representative."

3. The above texts are being telegraphed to you in order that you may inform the British Minister whom the Department assumes the British Foreign Office will consult before replying to the Department's memorandum.

CASTLE

793.003/758

*Draft of a Treaty Between China and the United States of America,
Revised as of July 14, 1931*

(Tentative and without commitment.)

PREAMBLE

The United States of America and the Republic of China, being animated by the desire further to strengthen the bonds of friendship happily existing between them, have resolved to conclude a Treaty for the purpose of readjusting matters relating to jurisdiction in China over nationals of the United States of America, and have appointed as their Plenipotentiaries, that is to say:

The President of the United States of America,

.....
The President of the National Government of the Republic of China,

.....
who, having duly exchanged their full powers which have been found to be in good and proper form, have agreed as follows:

ARTICLE I: TRANSFER OF JURISDICTION

Except as otherwise provided by the present Treaty, nationals of the United States of America shall in China be entitled to the protection, and shall be subject to the jurisdiction, of the Chinese courts, but they shall, under all circumstances, be amenable only to the jurisdiction of the Chinese Modern Courts of Justice (*Fa Yuan*) and to the duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China.

In cases of offenses under the Police Offenses Code or under Municipal Regulations, nationals of the United States of America shall in China be subject to the jurisdiction of the Police Courts, but in such cases the penalty imposed by the court shall not exceed a fine of fifteen *Yuan* or, in the event of such fine not being paid, detention at the rate of one day's detention for each *Yuan* of the fine imposed up to a maximum of fifteen days.

ARTICLE II: SPECIAL CHAMBERS

A Special Chamber shall be established, for such period as the Chinese Government may deem appropriate, not less than five years, in each of the District Courts (*Ti Fang Fa Yuan*) in Harbin, Shenyang (Mukden), Tientsin, Shanghai, Hangkow, Chungking, Canton, Kunming (Yunnanfu), Tsingtao and Foochow and in each of the High Courts (*Kao Teng Fa Yuan*) having appellate jurisdiction respectively over such courts.

All cases involving nationals of the United States of America as defendants or accused shall in China be tried only before the Special Chambers most accessible to the court within whose jurisdiction the cases originate, except: (1) those on final appeal in the Supreme Court of China; (2) those in which nationals of the United States of America concerned may elect in writing to submit themselves to the jurisdiction of the nearest Modern Court of Justice (*Fa Yuan*) to which no Special Chamber is attached; and (3) those which fall within the jurisdiction of the Police Courts of China as provided in Article I of the present Treaty.

ARTICLE III: LEGAL COUNSELORS

The Government of China agrees to take into its service for such period as it may deem appropriate, not less than five years, such number of Legal Counselors as it may consider necessary, who shall be selected and appointed as officials of China from among foreign legal experts of high moral character who possess the training, qualifications and practical experience necessary for appointment to judicial offices, and who shall be attached to the Special Chambers. Their names will

be communicated by the Government of China to the Government of the United States of America.

The Legal Counselors shall remain in office at the pleasure of the Chinese Government unless dismissed for cause duly shown, and they shall otherwise receive the consideration and respect due to the dignity of their office.

A Legal Counselor need not permanently reside at the place in which the Special Chamber of the court to which he is assigned is established and there shall be a flexible and practicable system of administration of assignments in order to ensure efficiency in the use of the services of the Legal Counselors.

The Legal Counselors shall serve under the Ministry of Justice and shall be deputed by the Minister of Justice to be present during hearings before the procurator, judge or judges of the Special Chambers of the District or High Courts in all cases involving nationals of the United States of America as defendants or accused. It shall be the duty of the Legal Counselors in these cases to observe the workings of the Special Chambers. They shall be given access to the files of the proceedings and may present their views in writing to the procurator, judge or judges who shall give due consideration to the views thus expressed. Adequate arrangements shall be made for interpreting in order to enable the Legal Counselors to follow and to observe the proceedings in court. The Legal Counselors shall forward to the Minister of Justice such reports as they may consider necessary and copies of these reports shall upon request be immediately furnished by the Legal Counselors to the Minister of the United States of America in China.

In addition, the Legal Counselors shall be authorized to receive directly, from any of the interested parties to an action in any Chinese court involving nationals of the United States of America, or from their counsel, observations in regard to the administration of justice, the execution of judgments, or the manner of the application of laws, and, at the request of the interested parties, shall bring such observations to the notice of the Minister of Justice with a view to ensuring the observance of Chinese laws. Copies of such observations shall likewise be furnished by the Legal Counselors to the Minister of the United States of America in China upon request.

Similarly, the Legal Counselors shall be authorized to receive such observations or complaints as may be caused by domiciliary visits, expropriations, requisitions, arrests, bail, detention and imprisonment, which observations or complaints shall be dealt with in like manner. Immediately following any domiciliary visit, search or arrest directly affecting nationals of the United States of America in any judicial

district, the local authorities shall notify the Legal Counselor most accessible in point of time.

When nationals of the United States of America, involved as defendants or accused, are tried before the Special Chambers of the District or High Courts, judgment shall be reserved until the foreign Legal Counselor shall have made, within three days after the conclusion of the trial, such observations, as he may desire to the procurator, judge or judges. In the event of these officers failing to give these observations due consideration, execution of the judgment will be suspended until the observations of the Legal Counselor shall have been considered by the Ministry of Justice which will take such action as it deems necessary in the interests of justice.

Any of the Chinese courts referred to in Article II may begin to exercise jurisdiction over nationals of the United States of America when the Special Chambers therein provided for shall have been organized and the Legal Counselors shall have been appointed and installed in office as provided in this Article.

ARTICLE IV: LAWYERS AND INTERPRETERS

Nationals of the United States of America appearing before Chinese courts may employ duly qualified lawyers of Chinese or American or any other foreign nationality, registered as such with the Chinese Government, and such lawyers, if of American or other foreign nationality, shall have the same rights and privileges as Chinese lawyers appearing before the court, and shall be subject, in all respects, to the same laws and regulations which govern Chinese lawyers. Nationals of the United States of America may also be entitled to employ duly qualified interpreters of whatever nationality.

Hearings shall be in the Chinese language but the court shall take measures to ensure an understanding of the proceedings by all parties and have the assistance of competent interpreters if necessary.

Nationals of the United States of America, parties to a suit or persons authorized by them may, upon payment of the usual official fees, obtain certified copies of the evidence and judgment in such suit, and arrangements will, if necessary and where possible, be made for supplying on application and on payment of the appropriate fees translations of such documents.

In all judicial proceedings in which nationals of the United States of America are summoned to appear as parties or witnesses, and in all court processes directly concerning such nationals, their names will, in order to avoid mistake and misunderstanding, be added in English to the Chinese texts of the summonses, orders, or other court processes.

ARTICLE V: ARRESTS, IMPRISONMENT, DETENTION AND BAIL

Except in cases *flagrante delicto*, nationals of the United States of America shall only be arrested, detained or imprisoned upon orders formally issued by a Modern Court of Justice specifically stating the legal grounds on which and the offense for which action is authorized. They shall, within twenty-four hours after arrest, exclusive of legal holidays, be brought for hearing before the nearest Modern Court of Justice competent to deal with the case. If there is no such Modern Court of Justice which can be reached in that space of time, nationals of the United States of America thus arrested shall be brought, with the least possible delay, before the nearest competent Modern Court of Justice.

Nationals of the United States of America under detention or under sentence of imprisonment shall only be detained or imprisoned in modern detention houses or modern prisons or in other premises suitable for their detention or imprisonment, provided that those under sentence of imprisonment for a term of five or more years shall be imprisoned only in modern prisons situated at places where Special Chambers are established.

Nationals of the United States of America arrested, detained or imprisoned shall be permitted to communicate with the nearest consular officer of the United States of America, and they shall be afforded all possible facilities to that end. Consular Officers of the United States of America or their representatives shall be permitted to visit nationals of the United States of America under arrest, detention or imprisonment at all reasonable times.

If a national of the United States of America charged with any offense, the maximum penalty for which does not exceed (1) imprisonment for six months or (2) imprisonment for one year, makes application before sentence is pronounced for the imposition of a fine instead of imprisonment, the court shall grant such application. The amount of the fine imposed shall be in accordance with the provisions of Chinese law, if such provisions exist, but in no case shall it exceed in the case of (1) a maximum of one thousand *Yuan* and in the case of (2) three thousand *Yuan*.

Unless the court has reasonable and good grounds to believe that nationals of the United States of America who may be arrested or detained will flee from justice if application for bail be granted, such nationals shall be granted immediate release on bail upon application therefor, except when such nationals have been duly charged according to law with the commission of a crime or crimes punishable by death or imprisonment for life, in which cases bail may be granted or denied in the discretion of the court. The amount of bail shall be reasonably proportionate to the offense alleged. Such facilities for

release on bail shall be granted to appellants until the sentence of the final Appellate Court is given.

Nationals of the United States of America shall not be subject to imprisonment for debt. If, however, it is shown that a debtor is taking action which will render execution on his goods in China impossible, or if execution cannot be safeguarded by any other means, he may be detained in the manner provided for such cases by Chinese law, in which case the provisions of the second and third paragraphs of this Article shall apply.

Except in such cases as must in accordance with Chinese law be heard *in camera*, all hearings of cases involving nationals of the United States of America shall be open to the public.

ARTICLE VI: TAXATION

Nationals of the United States of America shall be liable for the payment of such non-discriminatory Chinese taxation as may be actually paid by all nationals of China who are liable therefor and as may be authorized under legally enacted and duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China.

Nationals of the United States of America shall be protected against taxation without legal sanction and against irregular or discriminatory methods of assessing or levying taxation, and such legal taxation as is properly payable by nationals of the United States of America shall be enforced against them by no other process than that of action in the competent Chinese Modern Courts of Justice.

Municipal taxation shall be imposed upon nationals of the United States of America only in accordance with duly authorized municipal regulations sanctioned by the Central or Provincial Government of China. The proceeds of such municipal taxation shall in general only be expended on relevant purposes within the municipal area in question.

No methods of assessing liability to taxation shall be employed except those prescribed by duly promulgated laws, ordinances and regulations of China. In cases of disputed assessment, the party or parties concerned shall be entitled to have their liability and the amount thereof determined by the nearest Modern Court of Justice.

Tax agreements entered into with nationals of the United States of America in their several capacities as individuals, companies, firms, or partnerships shall be duly respected.

ARTICLE VII: ARBITRATION

The Chinese Courts of Justice shall recognize and, if necessary, enforce the performance of agreements wherever entered into by na-

nationals of the United States of America between one another, or with other foreign nationals, or with nationals of China, for the settlement of civil or commercial controversies by arbitration. The arbitrators selected by the parties in accordance with such agreements may be of any nationality.

The arbitration shall be conducted in accordance with the procedure established in the jurisdiction where the arbitrators meet.

The Chinese Courts of Justice shall not entertain any application or claim the subject matter of which falls within the scope of such an agreement for arbitration, but will enforce awards made in pursuance thereof, unless the award is contrary to public order or good morals or is vitiated on other grounds recognized by the general principles of law as understood in modern jurisprudence.

The above provisions shall apply reciprocally to agreements for arbitration entered into by nationals of China and the enforcement of awards made in pursuance thereof by the United States Courts.

ARTICLE VIII: RIGHTS IN IMMOVABLE PROPERTY

All rights in immovable property in China held by nationals of the United States of America shall, subject to the exercise of the right of eminent domain by the Chinese Government, be recognized as valid and remain undisturbed.

The property in China, movable or immovable, of nationals of the United States of America shall not be expropriated or requisitioned except for reasons of public interest recognized by law as such and only after adequate compensation has been paid. Any dispute regarding the amount of compensation to be paid shall be determined by reference to the competent administrative organ or the nearest Modern Court of Justice at the option of the nationals of the United States of America concerned.

ARTICLE IX: SEARCH OF PREMISES

The public buildings and private residences in China of nationals of the United States of America, and their warehouses, business premises and factories, together with accessory articles and properties, shall be respected and shall not be subjected to any occupation, search or inspection; and the books and correspondence relating to their commercial transactions shall not be examined except as specifically provided for in non-discriminatory legislation, legally enacted and duly promulgated. Premises in China occupied by nationals of the United States of America shall not be forcibly entered except (1) upon warrants formally issued by the Modern Courts of Justice, stating the legal grounds on which action is authorized, or (2) in cases *flagrante delicto*.

ARTICLE X: MILITARY SERVICE AND FORCED LOANS

Nationals of the United States of America in China shall not be subject to any form of military service, or to any tax or levy imposed as substitute for military service, or to military requisitions or contributions of any kind, nor shall they, directly or indirectly, be liable to or be compelled to subscribe to public loans or any other form of forced levy. Reciprocally, nationals of China shall enjoy in the United States of America similar exemptions in relation to all of the above matters.

ARTICLE XI: SHIPPING

Commercial vessels of nationals of the United States of America in Chinese ports or waters shall comply with such non-discriminatory and legally enacted and duly promulgated Chinese regulations as are applicable to all commercial vessels. They shall not be subject to any form of commandeering or requisition, nor shall they be compelled to carry Chinese troops or Chinese military supplies. Such vessels shall not be inspected, searched, boarded, or subjected to any kind of restraint by Chinese military forces except in the case of special emergency and only after due notification to and by arrangement with the captain or with the officer in charge of the vessel. They may not be boarded by Chinese police nor may any person be arrested on board any such vessel except upon a warrant formally issued by a Modern Court of Justice specifically stating the legal grounds on which action is authorized. In the absence of such a warrant, Chinese police may only board the vessel in case of special emergency and only after due notification to and by arrangement with the captain or with the officer in charge of the vessel. In general the treatment accorded to commercial vessels of nationals of the United States of America shall be in conformity with that accorded under recognized international practice by maritime nations to vessels of other countries in their ports or waters. The present authority of the Chinese Maritime Customs with respect to commercial vessels of nationals of the United States of America, including authority to search such vessels for the prevention of fraud or smuggling, shall remain unimpaired.

ARTICLE XII: COMPANIES

Companies, firms, partnerships, corporations or philanthropic institutions incorporated or organized in accordance with applicable federal or state laws of the United States of America or of its territorial possessions and operating in China shall, provided they comply with Chinese laws relating to registration of such organizations, be

entitled to all the rights and privileges enjoyed by nationals of the United States of America under the present Treaty. Such companies, firms, partnerships, corporations or philanthropic institutions, and their branches, agencies or representatives shall not be subject to discriminatory treatment, and, as regards national, provincial and municipal taxation, shall only be taxed in proportion to the amount of capital actually employed in China, in the province, or in the municipality, respectively, or in respect of profits and revenues which they have actually earned in China, in the province, or in the municipality, respectively.

Reciprocally, companies, firms, partnerships, corporations or philanthropic institutions incorporated or organized in accordance with applicable laws of China and operating in the United States of America shall enjoy, with regard to taxation and the right to carry on trade and access to the courts, treatment not less favorable than that enjoyed by companies, firms, partnerships, corporations or philanthropic institutions of the most-favored foreign country.

ARTICLE XIII: PENDING CASES

Cases terminated in the courts of the United States of America in China prior to the coming into force of the present Treaty shall not be reopened, and all final judgments or decisions rendered in such cases shall, if necessary, be executed in any part of China by the Chinese judicial authorities.

Cases pending before the courts of the United States of America in China at the time of the coming into force of the present Treaty shall continue until judgment is pronounced in the said courts, the jurisdiction of which shall remain in full force for this purpose; and the Chinese authorities shall lend any assistance requested by the authorities of the United States of America in this connection. Such cases shall be disposed of and wound up within a period of six months from the date of the coming into force of the present Treaty, upon the expiration of which period all cases still pending shall either be dismissed or be turned over for adjudication to the Chinese courts which would otherwise have jurisdiction under the provisions of the present Treaty.

It is understood that after the coming into force of the present Treaty, no action against nationals of the United States of America shall be entertained by the competent Chinese courts in respect of acts which took place prior to that date, for which they were not liable according to the laws of the United States of America but for which they might be liable according to the laws of China.

ARTICLE XIV: PERSONAL STATUS MATTERS

In all matters of personal status, among which are included all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship and interdiction, and in all matters relating to succession whether by will or on intestacy, and to the distribution and winding up of estates and family law in general, the applicable laws of the United States of America shall be applied by the Chinese courts as regards nationals of the United States of America in China.

All such cases of personal status where only nationals of the United States of America are concerned shall at the option of the parties concerned be dealt with outside the jurisdiction of the Chinese courts.

Consular officers of the United States of America shall take temporary possession of the estates in China of deceased nationals of the United States of America. They shall administer the same in all cases where no objection to such administration has been filed by an interested party in writing at a consular office of the United States of America in China within ninety days after notice of death has been published by the competent consular office. Where such objection is defended, the provisions of paragraphs one or two, as the case may be, shall apply. In cases of intestacy where there is no kin the immovable property of the deceased shall be disposed of in accordance with the laws of China.

The personal effects left behind by nationals of the United States of America who die on the high seas or when passing through China without having there any regular domicile or permanent residence shall be handed over to or be taken possession of by the nearest consular representative of the United States of America, who shall be entitled to dispose of the same in accordance with the laws of the United States of America without any interference by the Chinese authorities.

ARTICLE XV: RIGHTS OF RESIDENCE AND TRADE

The existing rights enjoyed in China by nationals of the United States of America to travel, to reside, to establish firms, to open branches, to acquire or lease property, and to work or engage in industry or trade, shall remain unimpaired.

ARTICLE XVI: EXCLUDED AREAS

(Blank)

ARTICLE XVII: DEFINITION OF THE EXPRESSIONS—"NATIONALS OF THE UNITED STATES OF AMERICA" AND "NATIONALS OF CHINA"

The expression "nationals of the United States of America" used in the present Treaty shall be deemed to include both citizens of the United States of America and citizens of its territorial possessions; and likewise the expression "nationals of China" shall be deemed to include both citizens of China and citizens of its territorial possessions.

ARTICLE XVIII: NON-DISCRIMINATORY TREATMENT

In all matters for which provision is made in the present Treaty, nationals of the United States of America shall be accorded in China treatment in no way discriminatory as compared with the treatment accorded to the nationals of any other country in China.

ARTICLE XIX: PROVISIONS OF EXISTING TREATIES

Except as otherwise provided in the present Treaty, the provisions of existing treaties between the two High Contracting Parties which are superseded by the provisions of the present Treaty are hereby abrogated.

ARTICLE XX: AUTHORIZED TEXT

The present Treaty has been drawn up in the Chinese and English languages, and these two texts shall have equal force. There shall be prepared as soon as possible a French text on which the High Contracting Parties shall agree, and that text, when adopted, shall, in case of dispute between the Chinese and the English texts, be authoritative.

ARTICLE XXI: DURATION

Except as otherwise provided in Articles II, III and XVI, the present Treaty shall be binding for a period of ten years from the date of its coming into force.

Either of the High Contracting Parties may within twelve months before the expiration of the said period of ten years demand that the provisions of the present Treaty be revised and/or extended. Negotiations shall thereupon be entered into for the purpose of effecting such revision and/or extension. If within this period of twelve months no agreement is reached in regard to such revision and/or extension, the present Treaty shall become upon its expiration null and void.

ARTICLE XXII: RATIFICATION

The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods.

The ratifications shall be exchanged at

The present Treaty shall come into force as soon as the ratifications shall have been exchanged.

In faith, whereof, the Plenipotentiaries named in the Preamble have signed the present Treaty and affixed thereto their seals.

Done at, the day of month of the year of the Republic of China, corresponding to the day of, 1931.

(Signed) *American Representative*

(Signed) *Chinese Representative*

DECLARATION

With reference to the Treaty concluded today between the Republic of China and the United States of America, I have the honor to declare on behalf of my Government as follows:

1. *Protection of the Courts:* The Chinese courts will ensure to the persons and property of nationals of the United States of America in China due protection in accordance with international law and the general practice of nations.

2. *Personnel of the Special Chambers:* The President of the court to which a Special Chamber is attached will be concurrently the chief judge of that Special Chamber, and the other judge or judges of the Special Chamber as well as its procurator or procurators will be legal scholars with a broad knowledge of the general concepts of modern jurisprudence and with practical legal or judicial experience. Their names, ranks, and salaries, will be made known to the public, and they will not be removed from office without cause.

3. *Legal Counselors:* The Legal Counselors will be engaged and employed by the Chinese Government under contracts specifying in detail the duration and the terms of their service, including in the case of each foreign Legal Counselor total annual emoluments of not less than dollars fourteen thousand five hundred United States currency, to be paid in quarterly instalments, the said quarterly instalments to be deposited in such bank or banks as the Legal Counselor concerned may indicate six months in advance of the date when such instalments fall due.

Among the corps of Legal Counselors, there will also be included one Legal Counselor of Chinese nationality who will be similarly selected and appointed from among Chinese legal experts possessing similar training, qualifications, and experience and will have the same

4. *Publication of Codes:* The work of compiling the modern Chinese codes and laws has now been completed and a copy of the Ssu Fa Li Kuei of the National Government issued by the Judicial Yuan which contains the texts of all the important codes, laws, ordinances and regulations promulgated up to the present time, a revised edition of which is in course of preparation, will be transmitted to the Government of the United States of America as soon as possible. With a view to enabling nationals of the United States of America and other foreign nationals in China to familiarize themselves with Chinese laws and judicial procedure, translations of the principal Chinese codes, laws, ordinances and regulations are being made and will be placed on sale, such translations being prepared under the direction of the competent Department of the Chinese Government. Of course, the Chinese text is and remains the only authoritative text of Chinese codes, laws, ordinances and regulations.

(Signed) *Chinese Representative*

JOINT DECLARATION

With reference to the Treaty concluded today between the United States of America and the Republic of China, the undersigned have the honor to declare on behalf of their respective Governments, as follows:

1. *Mutual Relations of Courts:* In the interest of justice, it is agreed that the respective courts of China and of the United States of America will, upon request, render mutual assistance to each other in respect to the service of judicial processes, the execution of judgments, the execution of letters rogatory, commissions to take testimony, and the extradition of offenders, in so far as these requests are in conformity with international practice and with the laws of the country of the court upon which the request is made.

2. *Rights and Privileges of Consular Officers:* Pending the coming into force of a consular convention between China and the United States of America, the rights and privileges of the consular officers of China in the United States of America and of the consular officers of the United States of America in China (except the right of extraterritorial jurisdiction over nationals of the United States of America in those areas where the extraterritorial rights of the United States of America have been surrendered), as defined in the existing treaties between the two countries, shall remain in force, provided that the treatment accorded by either country to such officers of the other shall not be less favorable than that accorded to similar officers of the foreign country most favored in this respect.

(Signed) *American Representative*

(Signed) *Chinese Representative*

EXCHANGE OF NOTES BETWEEN THE AMERICAN REPRESENTATIVE
AND THE CHINESE REPRESENTATIVE

EXCELLENCY: With reference to the Treaty concluded today between the United States of America and the Republic of China, I have the honor to request that Your Excellency be good enough to confirm my understanding as follows:

1. *Lawyers:* Duly qualified American lawyers appearing on behalf of nationals of the United States of America in the Chinese courts shall not be required to have a knowledge of the Chinese language or to possess diplomas of Chinese law schools.

2. *Rights in Immovable Property:* All legal Chinese land transfer fees leviable under regular Chinese legislation shall be paid by nationals of the United States of America on account of land transactions effected after the date of the coming into force of the present Treaty; but no demand shall be made by the Chinese authorities for the payment of such transfer fees on the transfer of land to or from nationals of the United States of America which transfers were made prior to the date of the coming into force of the present Treaty, and rights in immovable property held by nationals of the United States of America shall not be impaired on account of the non-payment of such transfer fees in the past.

Rights in immovable property in China now held by nationals of the United States of America shall not be impaired except upon legal grounds as a result of a decision rendered by a Modern Court of Justice, but nationals of the United States of America shall comply with the laws of China in regard to such property. In reaching their decisions in such cases, the Chinese courts shall take into consideration the treaty provisions, and the laws, customs, and practices in various parts of China which existed at the time when such property rights were acquired.

Existing rights of nationals of the United States of America to acquire, hold, and freely dispose of and transfer their rights in immovable property in accordance with Chinese laws shall remain unimpaired.

3. *Minor Offenses:* Where nationals of the United States of America are involved in minor incidents or offenses such as infractions of municipal regulations—including motor car cases and similar cases—the Chinese police shall so far as may be practicable assure themselves of the identity of the individuals concerned by taking their names and addresses and shall not arrest them or detain them in police stations.

4. *Bail:* It is understood that the liability of a national of the United States of America standing bail for a party involved in court proceedings shall in all cases be limited to the amount of actual bail fixed by the courts.

5. *Recognition of Professional Men:* The qualifications of American professional men such as doctors, chartered accountants, architects and engineers, shall, if necessary, on production of proper evidence including registration with the Chinese Government, where such registration is required by Chinese law, be recognized by the Chinese courts.

6. *Examination of Commercial Books and Correspondence:* In connection with legislation providing for the examination of commercial books and correspondence it is understood that in the case of American firms the certificates of duly qualified chartered accountants shall be accepted with a view to dispensing with, as far as may be practicable, such examination.

7. *Payment of Fines in Lieu of Detention and Imprisonment:* The Chinese courts shall not intentionally discourage applications for payment of fines in lieu of detention and imprisonment made in accordance with the provisions of paragraph four of Article V of the Treaty by unnecessarily imposing the maximum fine.

8. *Courts Outside of China Competent to Try Personal Status Cases:* With reference to clause two of Article XIV, in regard to personal status matters, it is understood that when such cases arise which are to be dealt with outside the jurisdiction of the Chinese courts, they shall be dealt with by the competent courts of the United States of America.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) *American Representative*

REPLY OF THE CHINESE REPRESENTATIVE

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of today's date referring to the Treaty concluded today between the Republic of China and the United States of America in which you request my confirmation of your understanding as follows:

(Eight points to be quoted in full.)

I hereby confirm your understanding quoted above as correct.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) *Chinese Representative*

NOTE OF THE CHINESE REPRESENTATIVE TO THE AMERICAN REPRESENTATIVE REGARDING LEGAL COUNSELORS

EXCELLENCY: With reference to the arrangements made in Article III of the Treaty concluded today between the Republic of China

and the United States of America providing for the employment of foreign Legal Counselors, I have the honor to state that it is the intention of the Chinese Government to engage the services of at least one Legal Counselor of American nationality.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) *Chinese Representative*

NOTE FROM AMERICAN REPRESENTATIVE TO CHINESE
REPRESENTATIVE

EXCELLENCY: With reference to Article XIV of the Treaty concluded today between the United States of America and the Republic of China, I have the honor to state that the Government of the United States of America reserves to itself the right to raise the question of trade and residence throughout the interior of China at such later date as it may deem appropriate.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) *American Representative*

793.003/758

The Acting Secretary of State to the Minister in China (Johnson)

No. 550

WASHINGTON, July 17, 1931.

SIR: Referring to the penultimate paragraph of the Department's instruction No. 536 of July 6, 1931, in regard to the extraterritoriality negotiations between the United States and China, the Department is sending you herewith a draft revised in the light of suggestions made by the Department's Legal Adviser,⁸⁷ together with a copy of a memorandum in regard thereto.⁸⁸

Excepting a few changes in punctuation and phraseology and those changes referred to in the enclosed memorandum, the enclosed draft is the same as that sent to you with the Department's instruction under reference. This new draft will be referred to in the future as the Department's draft of July 14, 1931.

Referring to the Minister's undated telegram from Shanghai received on June 23, 1931,⁸⁹ in regard to patents and copyrights, there is enclosed a draft of an additional paragraph prepared as a suggestion

⁸⁷ *Supra.*

⁸⁸ Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs, dated July 8, p. 888.

⁸⁹ Telegram dated June 21 is evidently intended, p. 881.

by the Department for insertion in the "Joint Declaration" attached to the Treaty if you are able to obtain the assent of the Minister for Foreign Affairs.

As stated in the last paragraph of the Department's No. 536 of July 6, 1931, instructions in regard to the enclosed draft and the future course of the negotiations will be telegraphed to you.

Very truly yours,

W. R. CASTLE, JR.

[Enclosure]

Draft of a Provision in Regard to Trademarks, Copyrights, and Patents To Be Added as the Third Matter Dealt With in the Joint Declaration Attached to the Proposed New Treaty in Regard to Extra-territoriality

"3. (*Trademarks, Copyrights and Patents:*) Pending revision of the Sino-American Treaty of October 8, 1903,"²⁰ the United States of America and the Republic of China agree that each shall extend to the nationals of the other, on a basis of complete reciprocity, national treatment in regard to trademarks, copyrights and patents which have been duly registered with the appropriate bureaus of the two Governments, provided that such treatment shall not be less favorable than that accorded to nationals of the foreign country most favored in this respect."

793.003/763 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State

[Paraphrase]

PEKING, July 30, 1931 40 a. m.

[Received July 30 12:50 a. m.]

471. Department's instruction No. 536, July 6, 1931, enclosing memorandum dated July 2.²¹

Would it be expedient or possible, in matters of personal status, for the American Government, by supplementary legislation and treaty, to place Chinese aliens under jurisdiction of the Federal courts, thereby permitting use of the reciprocal clause which the British have adopted and which appears to me to be more acceptable than the one proposed by Mr. Weigh?

JOHNSON

²⁰ *Foreign Relations*, 1903, p. 91.

²¹ Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs, p. 886.

793.003/765 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State[Paraphrase]²⁸

PEIPING, August 3, 1931—6 p. m.

[Received August 3—8:25 a. m.]

486. Your 228, July 13, 5 p. m., paragraph 2. The clause that "the provisions of the present treaty shall not be applicable within the area of Greater Shanghai" seems to me to be dangerous, since there are certain provisions in the treaty which we might wish to have applied within this area, e. g., most-favored-nation treatment and guarantees against exactions. Instead, would it not be preferable to use wording such as "the transfer of jurisdiction as provided in this treaty will not apply" or simply "nationals of the United States of America within the area of Greater Shanghai as shown on the map annexed hereto shall not be amenable to Chinese jurisdiction but shall continue to be", etc.?

JOHNSON

793.003/763 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)[Paraphrase]²⁸

WASHINGTON, August 10, 1931—2 p. m.

270. Your 471, July 30, 10 a. m.

(1) It is provided in the Constitution, article 3, section 2, that Federal courts shall have jurisdiction in cases between a State, or the citizens thereof, and foreign states, citizens, or subjects. The Federal Judicial Code, section 24, paragraph 1 (c) contains similar provisions.

(2) Since cases not thus specified are in the jurisdiction reserved by the Constitution to the States and since endeavoring to change such jurisdiction by treaty doubtless would be regarded in certain quarters as encroaching upon States' rights, hence encountering opposition on constitutional grounds, the Department does not feel it would be justified to undertake the placing, by treaty and supplementary legislation, of Chinese aliens under the jurisdiction of Federal courts in all personal status matters.

(3) If the Department's draft of article XIV would be made more acceptable to the Chinese by such a change, the Department would be willing to revise the clause which reads "the applicable laws of the

²⁸ Quotations not paraphrased.

United States of America shall be applied by the Chinese courts" to read "the applicable Federal laws of the United States of America (or 'the provisions of the District of Columbia Code') shall be applied by the Chinese courts."

(4) In the Department's draft of article XIV, third paragraph, third sentence, the word "defended" should be altered to "filed".

CASTLE

793.003/778

*Memorandum by the Minister in China (Johnson)*⁹⁴

PEIPING, August 31, 1931.

In the course of conversation today I asked Sir Miles Lampson, the British Minister, what he thought of introducing into the negotiations in regard to extraterritoriality a proposal that a foreign defendant be permitted to be accompanied by his lawyer in the course of trials before a procurator. I said that this question had occurred to me and I felt that it was very desirable that some such provision be introduced into the treaty, although I was not certain that we could obtain it in view of the fact that it would be quite contrary to Chinese law.

Sir Miles agreed that such a provision would be very useful. He said he had found that our new draft provided for some supervision over the activities of the procurator by the legal counselors which he thought very good and if we could obtain the right for a foreign defendant to have the advice of his lawyer during the procurator's investigation of the case it would be an additional safeguard of great value.

NELSON TRUSLER JOHNSON

793.003/770 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State

PEIPING, September 4, 1931—3 p. m.

[Received September 4—6:10 a. m.]

569. Department's written instruction No. 550 of July 17.

1. In comparing new draft with British draft we find that in article V the words "or fine" after the words "for one year" (see British text telegraphed April 19, 4 p. m.⁹⁵) have been dropped. Will Depart-

⁹⁴ Copy transmitted to the Department by the Minister in his despatch No. 1162, September 3; received September 28.

⁹⁵ See par. 3, subpar. (5), p. 798.

ment inform me why these words were dropped. They seemed to us necessary to make provisions compatible with Chinese criminal code.

2. Why has Department dropped provision regarding court cases being heard in Special Chambers from article VIII?

3. Why were words "of any" after the words "the option" in second paragraph of article No. XIV dropped?

JOHNSON

793.003/765 : Telegram

The Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, September 10, 1931—5 p. m.

320. Your 486, August 3, 6 p. m.

(1) Most-favored-nation treatment and guarantees against exactions are believed to be assured by provisions of our existing treaties continuing in force in the Shanghai area. The Department sought, while drafting article XVI, to exclude the Greater Shanghai area absolutely from all of the provisions of the proposed new treaty, so that the *status quo* would be preserved until a separate agreement has been negotiated for this area. Moreover, without the clause mentioned by the Legation, the provision in article XIX of the proposed treaty for abrogation of existing treaty provisions would create a situation in which there might be conflicting interpretations of the provisions for the continued exercise in the Shanghai area of extraterritorial jurisdiction.

(2) With a view to guarding against double taxation, the Department has, after further study, revised and is willing to take up on appropriate occasion with the British Foreign Office the paragraph in article XVI of the Department's draft in relation to taxation to be levied by the Chinese Government in the Greater Shanghai and Tientsin areas. As revised, the last part of this paragraph now reads thus:⁹⁶ "be liable for the payment of Chinese taxes referred to in article VI of the present treaty, provided that such taxation shall not discriminate in any way against nationals of the United States of America as compared with nationals of China and/or the nationals of any other country and provided that there shall be no duplication of taxation the levying of which falls within the competence of the authorities of the municipal subdivisions of these areas."

STIMSON

⁹⁶ Quotation not paraphrased.

793.003/770 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, September 10, 1931—6 p. m.

321. Your 569, September 4, 3 p. m., in regard to extraterritoriality.

1. The provisions of Article V specifically apply to all sentences of imprisonment not exceeding 6 and 12 months respectively, irrespective of whether the Chinese law provides a fine as an alternative to imprisonment. Accordingly the insertion of the words "or fine" after the words "for six months" and "for one year" would appear to be unnecessary but not conclusively objectionable.

2. The reference to special chambers was not included in Article VIII of the Department's draft of July 14 because it was felt that the general provisions of Article II provide for the hearing in the special chambers of cases involving rights of American nationals in immovable property. Perhaps the insertion of the word "competent" before the words "Modern Court of Justice" in the last sentence of Article VIII of the Department's draft of July 14 would be advisable. The same insertion would be made in the last sentence of the fourth paragraph of Article VI.

3. The words "of any" after the words "the option" in the second paragraph of Article XIV were not included in the Department's draft of July 14 because the Department, at the time that draft was prepared, was being guided, in so far as it was concerned with the Sino-British draft of June 6, by the Legation's telegram from Shanghai of June 18, 3 p. m.,⁹⁷ paragraph 15 of which stated that the text of Article XIV in the Sino-British draft was that reported in the Legation's telegram of May 9, 11 a. m., from Nanking, which did not contain the words "of any". Subsequently it was noted from the copy of the Sino-British draft of June 6 mailed with the Legation's despatch of June 16, from Shanghai,⁹⁷ that Article XIV contained the words "of any". The Department agrees that the insertion of these words is desirable.

STIMSON

⁹⁷ Not printed.

793.003/772 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 17, 1931—1 p. m.
[Received September 17—8:40 a. m.]

592. Your 319, September 9, 3 p. m.⁹⁹

1. Following personal letter from C. T. Wang dated September 15th, has been communicated to me by telegraph from Peck:

"Personal. My Dear Mr. Johnson: When you were leaving Nanking last, you intimated to me that you would be back by the first part of September. As two weeks have already gone by and not knowing when you will be back, may I venture to suggest that you return to the Capital as soon as possible, as the one outstanding question between our two countries, namely, extraterritoriality, demands immediate attention. I am quite sure that you will agree with me that there is not much time to spare for an amicable and satisfactory solution before January 1st next. Moreover, your friends here are anxious to see you again. With best regards, yours very sincerely, Chengting T. Wang."

3. [Paraphrase.] I believe we should not take advantage of the present situation by complicating matters for the British respecting Tientsin.

4. It appears to me, on the other hand, that we should not be obliged indefinitely to wait before we proceed with the negotiations we have begun and continued in good faith, if our only reason for not going on with our negotiations is that we are waiting on the British.

The Department will not wish, I believe, to make use of the unsatisfactory handling of the Thorburn case¹ as a reason for our not negotiating.

5. I have not shown the Wang letter to Lampson, though I informed him of it today. It may be the Department's wish to consider if it would not be wise to proceed with our negotiations at least by discussing various treaty details pending an agreement on article XVI between the British and us. I might visit Nanking to arrange the beginning of such discussion between Hsu Mo and Peck, as in the case of Hsu Mo and Teichman. I think we should not allow the discussions to grow cold, although I know that Lampson hopes for delay on our part, reinforcing thereby the British position in the Thorburn matter. Lampson did not ask this in so many words. [End paraphrase.]

JOHNSON

⁹⁹ Not printed.

¹ Involving a British subject.

793.003/772 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, September 18, 1931—2 p. m.

328. [Paraphrase.] Your 592, September 17, 1 p. m., and Department's 228, July 13, 5 p. m.

1. No comment or suggestions have been received by the Department from the British Foreign Office in regard to the memorandum mailed on July 14 to our Embassy in Great Britain² to be communicated to the Foreign Office; this memorandum contained the statement that the Department would appreciate receiving the Foreign Office's comments and suggestions. Nor has the Department in this period had any other indication of the views of the British Government regarding the extraterritoriality negotiations beyond what has been reported by you of your exchanges with Lampson.

2. The Department infers that the British Government wishes to defer its own commitment, including the resumption of negotiations, and hopes we will delay resuming negotiations.

3. The Department feels that this problem cannot be dealt with adequately merely by avoiding action. While the reluctance of any government to go ahead at this time with this subject stems from the present conditions in China, still, in view of C. T. Wang's letter to you and of previous conversations, we are called upon to take action, and the Department feels the situation is such as not to warrant refusing to negotiate. Although, as stated in the Department's 319, September 9, 3 p. m.,³ the Department would prefer that our negotiations with the Chinese be resumed simultaneously with those of the British or thereafter and would regret having to proceed without similar British action, it is considered desirable by the Department that this Government place no obstacle in the way of concluding before the end of this year, if at all possible, an agreement between the American and Chinese Governments. [End paraphrase.]

4. Department therefore expects shortly to give you definite instructions in regard to the above.

5. Referring to paragraphs 3 and 4 of your telegram under reference, Department concurs in the view which you express with regard to the question of Tientsin and with regard to the question of the Thorburn case.

6. Referring to your paragraph 5, Department is giving these points consideration.

7. You may inform Lampson at your discretion of the above.

² See quotation in telegram No. 228, July 13, 5 p. m., to the Minister in China, p. 890.

³ Not printed.

8. The Department wishes that, in connection with conclusion of contract for sale of wheat by Farm Board and related matters, you proceed to Nanking at your earliest convenience. Therefore, please telegraph immediately members of staff that will accompany you and be prepared to proceed upon receipt of Department's authorization.

9. It is suggested that you merely inform Wang that you are going to Nanking, without express mention of extraterritoriality.

10. Instructions with regard to extraterritoriality will be sent you at Nanking.

STIMSON

793.003/775 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, September 24, 1931—noon.

337. Your 614, September 21, noon, paragraph 1.⁴

In reply to Doctor Wang's letter you should inform him that this Government had actually instructed you to be prepared at once to go to Nanking, but that in the light of the events of the past 5 days the conclusion has been reached that you should remain for the present where you are and you have been so instructed.

STIMSON

793.003/781 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

PEIPING, October 6, 1931—1 p. m.

[Received October 6—8:15 a. m.]

709. My 592, September 17, 1 p. m. Yesterday I saw Lampson who read to me his Government's message stating that the British Government was not ready to agree to the trading of Tientsin for a new proposal regarding Shanghai, yet at the same time it believed that the American negotiations regarding Shanghai should go ahead with a view to finding out the Chinese attitude on this question. It is our understanding that the British Government is communicating with you in this regard.

JOHNSON

⁴ *Foreign Relations, Japan, 1931-1941*, vol. I, p. 2. Par. 1 refers to Dr. Wang's letter quoted in telegram No. 592, September 17, 1931, from the Minister in China, p. 914.

793.003/782

The Ambassador in Great Britain (Dawes) to the Secretary of State

No. 2297

LONDON, October 6, 1931.

[Received October 14.]

SIR: I have the honor to refer to the Department's instruction No. 852, July 14, 1931,⁵ relating to the proposed new treaty on extra-territorial rights of the United States in China, and to state that the memorandum forwarded therewith⁶ was duly delivered to the Foreign Office. There is attached hereto a copy of a memorandum in reply prepared by the Foreign Office, dated October 5, 1931,⁵ which was handed to a member of the Embassy staff without comment.

Respectfully yours,

(For the Ambassador)

RAY AThERTON

793.003/781 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, October 26, 1931—2 p. m.

101. For the Minister: Your 709, October 6, 1 p. m., concerning extraterritoriality.

(1) Through our London Embassy the Department has now received a British Foreign Office memorandum dated October 5, 1931, which comments upon the Department's July 14 memorandum and draft of article XVI on reserved areas mentioned therein. This British memorandum in substance shows a decided preference for the Chinese-British draft of article XVI, which was initialed on June 6 at Nanking. A copy of this memorandum is being mailed to you by the Department.

(2) The Department is sending through our London Embassy in reply to the Foreign Office a memorandum as follows:

[Here follows text of memorandum printed on page 918.]

(3) The Department feels that for the present discussion with the Chinese Government on the subject of extraterritoriality might be left in abeyance to the advantage of all concerned. It is suggested that you take no initiative in this regard; and, should the Chinese broach the subject to you, before making any commitment you should report to the Department.

⁵ Not printed.

⁶ For pertinent portions of memorandum, see telegram No. 228, July 13, to the Minister in China, p. 890.

(4) In the interim, however, if Lampson has been furnished with a copy of the British Foreign Office memorandum dated October 5, you may discuss with him the points raised by the latter in the light of the Department's July 14 memorandum. After your discussion you should give the benefit of your views to the Department.

STIMSON

793.003/782

The Secretary of State to the Ambassador in Great Britain (Dawes)

No. 964

WASHINGTON, October 27, 1931.

SIR: Referring to your despatch No. 2297 of October 6, 1931, transmitting a memorandum dated October 5, 1931, prepared by the Foreign Office, commenting upon the Department's memorandum of July 14, 1931, and enclosure therewith, in regard to Article XVI—Reserved Areas—of the proposed new Treaty with China relating to extraterritorial rights, there is enclosed herewith the Department's memorandum in reply.

The Department desires that you communicate the original of this memorandum to the Foreign Office and, in so doing, you may inform the Foreign Office that the text thereof has been telegraphed to the American Minister to China.

Very truly yours,

For the Secretary of State:
JAMES GRAFTON ROGERS

[Enclosure]

The Department of State to the British Foreign Office

MEMORANDUM

The Department of State has received through the American Embassy in London the Foreign Office's memorandum of October 5, 1931, commenting upon the Department's memorandum of July 14, 1931, and enclosure therewith, in regard to Article XVI—Reserved Areas—of the proposed new Treaty with China.

The Department has noted the comment of the Foreign Office. In view, however, of the present situation in China arising out of the crisis in Manchuria, it is believed that the future course of the negotiations in regard to extraterritoriality must await further developments.

The Department notes that the British Foreign Office views with "considerable concern" the Department's proposal to abandon, in the last resort, the reservation of Tientsin. In this connection, the Department desires to point out that it has all along contended for the reservation of four places in China, namely, Shanghai, Tientsin,

Hankow and Canton; that it has not at any time in the conduct of its negotiations with the Chinese Legation in Washington or with the Chinese Ministry of Foreign Affairs in Nanking intimated that it was prepared to give up a reservation of any of these four places; that the Department's suggestion that Tientsin might be given up was offered as an alternative to be considered only "in the last resort" and was and is believed to be in accord with views of the Foreign Office as communicated to the Department by the British Ambassador in Washington in a memorandum dated March 7, 1931,⁸ summarizing the substance of instructions which had been sent by the Foreign Office to the British Minister to China, as follows:

"With regard to point (c) in paragraph five above (excluded areas), His Majesty's Government consider that the exclusion of Shanghai is the most important interest at stake, even if the area excluded is limited to the International Settlement only. This seems to them vitally necessary. Canton, Hankow and Tientsin are regarded as important, but His Majesty's Government think they might be abandoned as a last resort."

However, during the future course of its negotiations with the Chinese Government, the Department will keep in mind the views of the Foreign Office on this question.

WASHINGTON, October 27, 1931.

793.003/785 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

SHANGHAI, November 2, 1931—1 p. m.

[Received November 2—6:33 a. m.]

Your 101, October 26, 2 p. m., to Nanking.

(1) My 709, October 6, 1 p. m. Since then I have discussed the question of extraterritorial negotiations with Lampson, and we agree that, in the event the present negotiations between the Nanking and Canton delegates resolve the differences which exist between the Nanking and Canton sections of the Kuomintang by presenting to us a unified Chinese Government with a new Foreign Minister, it would be wise for us to go forward with our negotiations with the hope of obtaining a possible agreement by the end of 1931. In the drafts under discussion we feel we have a very good treaty. These drafts we feel represent the best to be expected.

⁸ For full text of memorandum, see p. 741.

(2) It is our feeling that the signature of agreements along the lines of our drafts before the end of 1931 will forestall precipitate Chinese action at that time under the mandate issued last May.*

(3) In this matter I do not propose taking an initiative without consulting the Department, but I should like the Department to consider whether I should take advantage of an early opportunity to sound out a new Foreign Minister, if one is installed, on the question of the American draft with a view to starting discussions which might end with the signature of an agreement along those lines.

JOHNSON

793.003/785 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, December 1, 1931—7 p. m.

129. For the Minister: Your November 2, 1 p. m., from Shanghai, on extraterritoriality.

(1) Regarding the question of resuming our extraterritoriality negotiations, it is the Department's opinion that it would be well if you seek an early occasion to discuss this matter very informally with the Acting Foreign Minister at Nanking, for the purpose of clarifying the situation and of obtaining an indication as to his attitude thereto. You should refer to the July 14 draft, which was prepared here by the Department and the Chinese Legation, and to your arrangement with C. T. Wang about resuming negotiations in the autumn, an arrangement which was not carried out owing to the turn of events in Manchuria and to Dr. Wang's resignation as Foreign Minister. If it seems advisable in the course of the conversation, you might suggest that, though you will be authorized if the Acting Minister so desires to resume our negotiations, the Department is inclined to think it would be advisable in the present circumstances to let this whole question remain for the time being in abeyance.

(2) With reference to your despatch No. 1212, October 8, enclosing a copy of your memorandum of conversation on October 5 with Lampson,¹⁰ in which you report the instructions he had from the British Foreign Office that "subsequent British negotiations would be contingent upon results of American negotiations", you should discuss this with Lampson and, following your conversation with the Chinese

* Mandate issued May 4, 1931, not printed; see memorandum by the Minister in China, May 4, p. 837, and telegram of May 5 from the Minister, p. 838.

¹⁰ Not printed.

Acting Foreign Minister, inform Lampson of the results. The Department also should be informed.

STIMSON

793.003/792 : Telegram

*The Minister in China (Johnson) to the Secretary of State*¹¹

[Paraphrase]

NANKING, December 15, 1931—5 p. m.
[Received December 15—10:55 a. m.]

Your 134, December 12, 1 p. m.¹²

(1) Since my November 2, 1 p. m., from Shanghai, on extraterritoriality, it has not appeared wise to me to precipitate discussions on this subject, conditions having been so uncertain in regard to the Chinese Government. My British colleague agrees with me in this. In the course of a conversation I had some time ago with Frank Lee, the Chinese Vice Minister for Foreign Affairs, I took occasion to mention to him my hope that the Chinese Government would not attempt putting into effect under the existing conditions the Government mandate issued last May, which was to become effective January 1, 1932. Lee agreed with me that under present conditions it would be impossible for his Government to implement this mandate on January 1. He said no preparations had been made to do this and it was his hope we would not press this matter, for he expected, once unification had been effected between Nanking and Canton, to find an opportunity to persuade the new Chinese Government to let matters stand. He stated it was difficult for him at that time to take this up.

(2) Previously my British colleague had conversed with Lee along similar lines, and subsequently he took the same stand in a conversation with a member of the Kuomintang Executive Committee. A member of this committee agreed with my British colleague that under present conditions it would not be wise for the Chinese Government to attempt the implementation of the mandate as of January 1.

(3) The other day my British colleague had a conversation with the Acting Foreign Minister, Wellington Koo, subsequent to his taking up office and introduced this question. Wellington Koo was informed that the British Government's intention was not to complete an agreement relative to extraterritoriality while conditions prevailed as at present. Dr. Koo made no comment, but it is our hope that the Government will not do anything at this time regarding extraterritoriality.

¹¹ Telegram corrected on basis of Minister's telegram of December 16, 1931, 9 a. m., from Nanking; received December 15, 11:55 p. m. (793.003/793)

¹² Not printed.

(4) Conditions in the Government are so unsettled that I have thought it useless to try to enter any serious discussion of extra-territoriality or related questions, so I have refrained from taking up the matter with Dr. Koo in the hope that conditions would stabilize so that something could be done.

(5) The President of the National Government today resigned, and I expect to hear before the day is over that the Acting Foreign Minister has left office. I fear some days may elapse before there will be a sufficiently established Government with which to have any serious discussions. If the Department does not desire me to stay here, pending establishment of such a Government, I would like to return to Peiping with the expectation of coming back here after the beginning of the year when the Government has had a chance to settle down in office and when responsible people can be seen. At present, Nanking lacks a responsible head of department. I should wish to leave Nanking not later than December 21.

JOHNSON

793.003/792: Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, December 17, 1931—1 p. m.

137. For the Minister: Your December 15, 5 p. m., from Nanking, the extraterritoriality paragraphs.

(1) With reference to the Department's 129, December 1, 7 p. m., to Nanking, paragraph (1), second sentence, and to your telegram cited above, paragraphs (3) and (4), the Department feels it was unfortunate you did not mention the matter to Dr. Koo, thus completing our record in connection with the arrangement between you and C. T. Wang.

(2) With reference to your telegram cited above, paragraph (1), regarding Frank Lee's statement that no preparations had been effected to implement the May 4 mandate, the Department has had certain indications that, though complete preparations have not been effected to implement the mandate, steps have been taken looking toward this end which, if carried out, may lead to unfortunate incidents after January 1st. In his political survey for last August, the Consul at Yunnanfu reported publication in the Yunnan Provincial Government's *Official Gazette* of an instruction from the National Government at Nanking regarding the May 4 mandate to the effect that from January 1, 1932, the regulations governing exercise of jurisdiction over foreigners in China will be effective. A notice was carried in the same *Official Gazette* to the effect that instructions accord-

ingly had been sent authorities of Yunnan's three district courts and first prison. It could be assumed that similar instructions went to other Provincial Governments. More material on this subject may have reached the Legation.

STIMSON

793.003/794 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, December 19, 1931—9 a. m.

[Received December 19—4: 43 a. m.]

Department's 137, December 17, 1 p. m., to Nanking.

Last evening I saw Wellington Koo who told me that he would shortly again submit his resignation. I brought up the question concerning putting the May 4 mandate into effect and stated my hope that the Chinese Government would take no steps to implement the mandate on January 1. I pointed out that the negotiations in which we were engaged had been interrupted by the autumn's events and that implementation of this mandate would destroy the atmosphere of cordiality in which our negotiations were being conducted. Dr. Koo said the question of the mandate was engaging the Government's attention and would naturally demand the early attention of the new government upon its coming into power. Koo inquired whether the United States was taking a stand on extraterritoriality independently of Great Britain. I answered that our negotiations were independent of but more or less simultaneous with those of Great Britain; that our interests naturally were pretty much alike, and that at any rate we do not propose putting our citizens in a position which is less favorable than that of the most favored nation. Koo remarked that no doubt we would be satisfied to have our agreement provide that it would not become effective for American citizens pending a similar relinquishment of the rights of other nationals. I said I was without final instructions and did not know exactly how my Government stood in this respect.

Thereupon Koo asked what would be the American attitude if in the next few days the Chinese Government should formally request continuation of the negotiations. I told him I did not know, but that I felt my Government was willing to continue the negotiations although it naturally felt, under existing unsettled conditions, it would be better to wait. If such a request were made of me, I said, I would of course have to refer it to Washington. He remarked that a statement by us of our readiness to go on with the negotiations would greatly aid them in handling the mandate problem. Koo pointed out that little

remained for discussion with the British, but with us the question of reserved areas still remained.

I expressed the hope that until after the 1st of January at least nothing would be done in this regard.

JOHNSON

893.00/11681 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, December 19, 1931—noon.

[Received December 19—5:28 a. m.]

My December 19, 9 a. m. I have just had a talk with C. C. Wu who tells me that the Government is going to be very much preoccupied with governmental reorganization during next 2 weeks. He said that posts of Foreign Affairs and Finance in new Cabinet were extremely uncertain. He himself expects to take Chairmanship of Kwangtung.

I told him, as I told Koo yesterday, that I was going north on Monday¹³ to return shortly after the new year.

I and my French colleagues are expecting to dine informally with General Chiang Kai-shek Sunday evening. My British colleague leaves Shanghai today by Japanese merchant vessel for Tientsin.

JOHNSON

793.003/794 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, December 19, 1931—6 p. m..

139. For the Minister: Your December 19, 9 a. m., from Nanking.

The Department requests comments and suggestions from you, in connection particularly with the possibility of the nonrealization of your hope as expressed in the final sentence of your telegram.

STIMSON

793.003/769a

*The Department of State to the Chinese Legation*¹⁴

[WASHINGTON,] December 19, 1931.

Last summer when Dr. C. C. Wu resigned his position as Minister of China to the United States, his departure from Washington rendered it impossible to continue here the negotiations which had been going on during the period while he was here on the subject of extra-

¹³ December 21, 1931.

¹⁴ Statement read to the Chinese Minister on December 21, 1931.

territoriality. The Department of State then instructed the American Minister to China to carry the matter on with the Minister for Foreign Affairs. When the call of the North caused both our Minister and Dr. Wang to desire to suspend matters during the summer vacation period, it was agreed that there would be a recess and the matter would be taken up again after Minister Johnson's return to Nanking in the early fall. At about the time when Minister Johnson was preparing to leave Peiping for Nanking, the Manchuria incident broke. A few weeks later, shortly after Minister Johnson's arrival in Nanking, there occurred the assault by the students on Dr. Wang. Thereafter, events in connection with Manchuria have held the whole of the stage.

A few days ago the Department instructed Minister Johnson to broach the subject to the Minister for Foreign Affairs, Dr. Koo. This Minister Johnson has done. Minister Johnson reports a conversation of a rather inconclusive nature in which there was discussed the question of the practicability of resuming these negotiations now and some reference was made to the mandate which the Nanking Government had issued in May last on the subject of putting into effect Chinese jurisdiction on January 1, 1932.

In view of the now proceeding governmental changes in China we have no clear idea as to the situation. Minister Johnson has left Nanking for the holidays.

This Government is prepared to go on with the negotiations now or at any time when it suits the convenience of the Chinese Government to resume discussion of this matter. At the same time, it does not seem to us that the moment is opportune and it would seem to us advisable to let the matter continue in suspension.

793.003/795 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, December 21, 1931—11 a. m.

[Received December 21—5:35 a. m.]

Your 139, December 19, 6 p. m.

(1) It is impossible at the present moment to anticipate precisely what action if any the Chinese may take regarding this question. Last night General Chiang Kai-shek informed me he was leaving either this week or next week to spend 2 or 3 months at Fenghwa, Chekiang. Madame Chiang said her brother, T. V. Soong, also was leaving the Government. The Congress scheduled to open today has been postponed until tomorrow and is unable to complete its num-

ber. It will be occupied until about December 25 with a complete reorganization of the Government. Wellington Koo told me he expected to quit Nanking before the year's end. C. C. Wu tells me he does not expect any important questions in foreign affairs to be taken up for the present by the Government. I am unable to find anywhere anyone who can speak with responsibility on this or any subject just now.

(2) In view of the above situation and if the Government attempts putting the May mandate into effect on January 1, the only thing for us to do, it seems to me, is to notify the Government of our inability to accept the situation resulting therefrom as applicable to our citizens and to point out our continued willingness to complete the extraterritoriality negotiations.

I leave today for Peiping.

JOHNSON

793.003/796

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] December 23, 1931.

The British Ambassador brought in the attached memorandum¹⁵ on the subject of extraterritoriality in China, this being the substance of the instructions sent to Sir Miles Lampson. The Ambassador was anxious to know whether, in general, we agreed with this attitude. I said that we, of course, felt that negotiations, when there was really no government to negotiate with, were pretty useless, but that we also felt we should not put ourselves in the position where the Chinese might say that we had broken negotiations and, therefore, with more apparent right, put the mandate into effect. The Ambassador said that it is the general belief in England that any new Chinese Government which comes in will not accept the draft as negotiated by Sir Miles Lampson, but that it probably will be a question of beginning all over again. He asked whether we had any idea as to whether the mandate would probably be put into effect on the first of January. I said that we had none, but that we rather believed that no new move would be made and that there might be a possibility that the local authorities in the various parts of China would attempt to put it into effect, that, in that case, we would be inclined to stand very strongly on our rights. I said that I could not commit this Government to the implication in the sentence in the memorandum which states, "His Majesty's Government would not hesitate to take what measures are open to them to maintain their treaty rights" as the implication certainly was that the British would not hesitate to land

¹⁵ Not printed.

troops or to take really warlike measures. I repeated, however, that we should certainly plan to stand firmly on our treaty rights.

The Ambassador said he would be very grateful for a memorandum stating our position, particularly if it seriously deviated from the position taken in the instructions to Sir Miles Lampson.

W. R. CASTLE, JR.

793.003/796

*The Department of State to the British Embassy*¹⁸

The Department of State has received from the British Ambassador in Washington an informal memorandum dated December 23, 1931,¹⁷ giving the gist of instructions sent by his Government to the British Minister to China in regard to extraterritoriality and making inquiry (1) in regard to the views of the American Government as to the danger that extraterritoriality may be disregarded in China after January 1, 1932, and (2) whether the American Government would be prepared to adopt an attitude similar to that of the British Government in resisting an attempted enforcement of the Nanking Government's Mandate of May 4, 1931, in regard to the exercise of jurisdiction over foreigners in China on and after January 1, 1932.

The Department notes that the British Government is not prepared at the present time to complete its negotiations with China in regard to extraterritoriality; also that the British Government is prepared, by such measures as are open to them, to resist attempt, if and when made, by the Chinese authorities to enforce the Mandate of May 4, 1931.

The views of the Department with regard to the questions referred to above are given below.

It is doubted whether there will exist in China, by January 1, 1932, or for some time thereafter, either at Nanking or elsewhere in China, a central Government sufficiently well established to deal effectively with the question of extraterritoriality either by negotiation or by unilateral action along the lines of the enforcement of the Mandate of May 4, 1931. In view of the gravity of the Sino-Japanese situation, any central Government that may exist in China will in probability follow the course of least resistance—which will be to do nothing fundamental about extraterritoriality for the time being.

In view, however, of the fact that the Nanking Government issued instructions some months ago to some, if not all, of the provincial governments of China, in regard to the taking over of jurisdiction over foreigners in China on and after January 1, 1932, it is not unlikely that a case may arise somewhere in China involving an extraterritorial

¹⁸ Handed to the British Ambassador on December 29, 1931.

¹⁷ Not printed.

foreigner, either as a defendant in a civil case or as accused in a criminal case, in which the local authorities, acting under the instructions referred to, may attempt to take jurisdiction. It is believed, therefore, that if and when the question of the enforcement of the Mandate of May 4, 1931 does arise, it will arise in that manner.

If this estimate of the situation is correct, the central Chinese Government existing at the time will be confronted with a situation which will require a decision on its part as to whether it will attempt to support the local authorities or will instruct them to hand the foreigner involved over to his own authorities. On the other hand, the extraterritorial power whose national is involved (and probably all extraterritorial powers) will be faced with a situation which will require a decision as to whether this assumption of jurisdiction by the local Chinese authorities is to be resisted and how.

With regard to the attitude which the central Government of China may take under such circumstances, this will depend largely upon the strength of that Government and upon the difficulties with which it may be confronted at the time. It is impossible, therefore, at this time to predict what its attitude will be.

With regard to the attitude which the American Government would take in the event that one of its nationals happens to be the first involved in a case arising under the Mandate of May 4, 1931, it is believed that the American Government would find it necessary to lodge a vigorous protest both with the local authorities and with the national Government of China against this violation of the treaty rights of American nationals in China. If such protest should not result in the handing over of the American national to the American authorities, the question of what further steps are to be taken to enforce American treaty rights will necessarily depend upon the situation existing at the time and, to a certain extent, upon the attitude of the other principally interested extraterritorial powers, as the Department appreciates the importance of similarity of attitude toward this subject on the part of such powers.

[WASHINGTON,] December 28, 1931.

793.003/798

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the British Ambassador (Lindsay)

[WASHINGTON,] December 29, 1931.

Mr. Hornbeck made reference to the conversation between the British Ambassador and Mr. Castle of December 23, 1931,¹⁸ and to the

¹⁸ See memorandum by the Under Secretary of State dated December 23, p. 926.

memorandum which the Ambassador left with Mr. Castle.¹⁹ He said that the Department was replying, with a memorandum—the original of which he handed to the Ambassador;²⁰ but that there were one or two points in the incoming memorandum with regard to which the Department wished that he inquire and one or two features of the Department's reply concerning which he was to make comment. He wished to inquire whether it was to be understood that Sir Miles Lampson was to speak to the Chinese in advance of the occurrence, if and when, of an attempt by the Chinese to assume jurisdiction over an extraterritorial national.

To that question, Sir Ronald replied that he inferred that it was so intended. He asked whether we had had any word from Minister Johnson of Sir Miles having communicated in this sense with the Chinese.

Mr. Hornbeck replied that we had not had such word; that it was his understanding that both the British Minister and our Minister were away from Nanking at present; and that it would seem that it might be assumed that Sir Miles had not acted as yet, in view of the pending reorganization of the Chinese Government at Nanking. He said parenthetically that he had just heard from a newspaper correspondent that word had come that the new Cabinet had been formed and that Eugene Chen was to be Minister for Foreign Affairs.

The Ambassador said that in all probability Sir Miles had not yet acted and that he would probably inform the American Minister before acting.

Mr. Hornbeck said that we had been discussing here the question of the advisability or inadvisability of taking the initiative in this matter and that we were inclined to the view that it might be best to await the approach of January 1 in silence, leaving it to the Chinese to take the initiative, if any. We thought it might reasonably be hoped that, preoccupied as they are with other matters, and disorganized as they are, they would avoid gratuitously raising this embarrassing question under present circumstances. We recognized, of course, that there was no telling what they might do.

The Ambassador said that it was of course a matter for hope.

Mr. Hornbeck referred to the statement in the British memorandum that the British Government would expect to employ "what measures are open to them" by way of combating an attempt on the part of the Chinese to exercise jurisdiction in advance of conclusion of an agreement. He said that the Department would welcome such indication as the British Government might feel it could make of the measures which might be possible to it.

¹⁹ Memorandum not printed.

²⁰ *Supra*.

The Ambassador said frankly that he did not know how far they might be willing to go, but it might be that all they could do would be to voice their objection. He said that, after talking with Mr. Castle, he had reported to his Government that the terms in which it mentioned this matter were so vague that it could not be expected that the American Government would make any definite commitment as to its readiness to take concurrent action. He said that he thought that the view expressed in our memorandum that it would be necessary to consider the circumstances, if and when a case arose, was the correct position.

Mr. Hornbeck then said that he was authorized to introduce a suggestion informally and quite off the record: there had been some discussion here of the possible advisability of arrival at an informal understanding on the part of the powers most interested which would enable them to prepare in advance for simultaneous and identical or similar action in case the Chinese should attempt to take jurisdiction over an extraterritorial national and in connection therewith cite the Mandate of May 4, 1931. He said that it might be quite impracticable, but that we wondered whether the British Government might feel inclined to canvass that possibility, taking it up with, perhaps, the French and the Japanese Governments, with the thought that, if and when the Chinese cited the Mandate, the powers might all express their non-assent.

The Ambassador said that he had thought of some such possibility, but that, in view of certain current situations, he felt that if anybody made such a suggestion and if the attempt were made to formulate in advance an understanding with regard to action to be taken, there would be danger of disclosure and consequent disadvantage to all concerned. He felt that it was better to confine the discussion of the problem to the British and the American Governments.

The conclusion was reached that the Department would inform the American Minister to China with regard to the memoranda exchanged and it would be expected that the American and the British Ministers would confer. It would be understood that both Governments would expect to object to any attempt by the Chinese to assume jurisdiction in the absence of conclusion of agreements.

Mr. Hornbeck said that it must be kept in mind that the American Government had outstanding an informal undertaking on the part of its Minister that it would be ready to resume negotiations whenever the Chinese requested that they be resumed; he referred to the fact that the British negotiations were more advanced than the American negotiations and that it might be difficult for the British, in case the Chinese indicated a desire to conclude the matter, to decline to carry the negotiations through. The Ambassador assented. The

view was expressed that no one could predict what Eugene Chen might attempt.

Mr. Hornbeck said that in any event it could be understood that the British and the American Governments would not readily assent to abrogation of their extraterritorial rights by Chinese unilateral action. The Ambassador said that that was his view.

The conversation there ended.

S[TANLEY] K. H[ORNBECK]

793.003/797 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 31 [30], 1931—1 p. m.
[Received December 30—2:15 a. m.]

1152. Following from American Consul General at Nanking:

"December 29, 8 p. m. Government Mandate has been issued December 29th postponing the date of going into effect of the law of May 4, 1931, relating to jurisdiction over foreigners in China. When I have confirmed the text I will telegraph translation."

JOHNSON

793.003/799 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 31, 1931—10 a. m.
[Received December 31—2:30 a. m.]

1158. Legation's 1152, December 30, 1 p. m. Following from American Consul General at Nanking:

"December 31, 10 a. m. [*sic*] My December 29, 8 p. m. The following is the Chinese text of the mandate as it appears in today's issue of the semi-official *Chung Yang Jih Pao*:

Regarding the application of jurisdiction over foreigners it is to be recalled that the regulations governing application of jurisdiction over foreigners in China in 12 articles were promulgated on May 4th and that it was decided upon to put them into force on and after January 1, 1932, as is on record.

Now due to the famine and calamities in various localities all necessary preparations have not as yet been effected. The enforcement of the said regulations governing application of jurisdiction over foreigners in China should be temporarily postponed. The appropriate authorities are still directed immediately and satisfactorily to complete all preparations in order that a date for enforcement may be fixed and judicial rights respected.

Before dispatching my December 29, 8 p. m., I obtained oral confirmation from an authoritative source."

JOHNSON

793.003/799a : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, December 31, 1931—3 p. m.

476. Referring to paragraph 3 of Department's 472, December 29, 6 p. m., regarding extraterritoriality.²¹

(1) The Department has been inclined to think it would be advantageous, before there arises a case involving an attempt by any Chinese authorities to take jurisdiction, to make to the Chinese authorities an express statement in the sense that Chinese unilateral action will not be assented to.

However, in view of your 1152, December 31 [30], 1 p. m., the Department now is of the opinion that for the time being it may be most advisable to refrain from such action and thus to avoid giving new prominence to the subject of extraterritoriality.

(2) Points to guide you :

(a) You should discuss this subject with Lampson, so that, in the event of the question of the mandate and its possible enforcement coming to the front again, he and you, you being so authorized, may shape your representations on behalf of your respective Governments along similar lines and may present them at approximately the same time.

(b) If any Chinese authorities try to take jurisdiction over one of our citizens, you are authorized also to make objection to the Chinese Government.

(c) If and when the representations in either event are made, the Chinese Government should be informed that any unilateral action by authorities in China derogatory to the extraterritorial rights of Americans is objected to and that this Government expects to continue enjoying these rights until their modification or abrogation through the conclusion and coming into effect of an agreement on the subject. Whenever this communication is made, you should clearly add that this Government remains willing to continue negotiating with China in order to reach a mutually satisfactory agreement.

(3) The foregoing instruction is to guide you and is not to be circularized for the present to American consular officers in China.

CARR

²¹ Telegram not printed; it reported the British Ambassador's call on December 23 (see memorandum by the Under Secretary of State, p. 926), and quoted the Department's memorandum of December 28 to the British Embassy (p. 927); par. 3 stated that comments and instructions would follow in a later telegram.

MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION
OF AMERICAN LIVES AND PROPERTY IN CHINA¹

893.111/201

The Secretary of State to the Minister in China (Johnson)

No. 373

WASHINGTON, January 19, 1931.

SIR: The Department refers to despatch L. No. 1091, of November 20, 1930, from the American Consul General at Hankow to the Legation, and the enclosures thereto, consisting of letters dated November 14 and November 18, 1930, from the Director of the Public Safety Bureau at Hankow to the American Consul General.² In these letters the Director requests that missionaries and others be notified, because of unsettled conditions in Honan, to refrain from travel in that province for the time being.

Consular officers in China will continue to advise American citizens to avoid residence or travel in areas in the interior where they cannot be afforded protection or from which they cannot be evacuated in case of necessity with safety and expedition. But the frequency with which letters such as that enclosed with the despatch from the American Consul General at Hankow have been received by American consular officers in China appears to render it desirable that the responsible Chinese authorities be reminded afresh that they cannot absolve themselves by such notices of the responsibility placed upon them by existing treaties for the protection of American citizens in China.

The Department desires, therefore, that the Legation instruct American consular officers in China that when they receive letters such as those described in the first paragraph of this despatch, they reply thereto in the sense that while they wish by all proper means to cooperate with the Chinese authorities in the prevention of untoward incidents and will continue to advise American citizens not to reside in unsafe areas, consular officers are constrained to invite attention to the responsibility placed by existing treaties upon the Chinese Government for the protection of American citizens in China, and to the fact that notification to consular officers that a given area is unsafe for residence or travel does not serve to remove such responsibility.

In this connection, reference is made to the Department's instructions No. 420 of June 15, 1923³ and No. 272 of October 7, 1930,⁴ deal-

¹ Continued from *Foreign Relations*, 1930, vol. II, pp. 80-223.

² None printed.

³ Not printed.

⁴ *Foreign Relations*, 1930, vol. II, p. 191.

ing with the subject of regions declared by the Chinese authorities to be unsafe.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

393.1111 Nelson, Bert N./56 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, January 20, 1931—11 a. m.

[Received January 20—6 a. m.]

32. Legation's 5, January 6, noon.⁵ Following from American Consul at Hankow:

"January 19, 4 p. m. Nelson ⁶ has been taken by his captors across the Hupeh border into Anhwei. I have notified military authorities and again urged that some definite and sustained effort be made to effect release. I suggest that the case be brought once more to attention of Nanking authorities."

Repeated to Nanking.

JOHNSON

893.00/11352 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, January 26, 1931—4 p. m.

[Received January 26—1 p. m.]

7. The following telegram has been sent to the Legation:

"January 26, 3 p. m. U. S. S. *Tutuila* was fired upon by fieldpiece at mileage 202 above Hankow yesterday. Fire was returned by 10 rounds 3-inch shells and 300 rounds machine guns. No casualties on *Tutuila*.

Mei Lu, Standard Oil Company vessel, was fired upon approximately same place few days ago by rifle fire while at anchor. Vessel hit many times but no casualties. While there has been some improvement on middle river, attacks on vessels passing Temple Hill still continues.

A young woman alleged Communist was executed on Customhouse Bund yesterday. Repeated to Department."

LOCKHART

⁵ Not printed.

⁶ Rev. Bert N. Nelson, American missionary kidnaped on October 5, 1930.

893.801 Search/40

The Secretary of State to the Minister in China (Johnson)

No. 381

WASHINGTON, January 26, 1931.

SIR: The Department has received the Legation's despatch No. 607 of November 20, 1930, enclosing the Chinese text and English translation of "Instructions for the Guidance of Officers in Charge of Revenue Launches or Cruisers when Stopping and Searching Vessels, Foreign and Chinese, in Chinese Waters",⁷ and requesting the Department's instructions and views with regard thereto.

The Legation is authorized to inform the Ministry of Foreign Affairs in the sense that the American Government is in sympathy with the efforts being made by the Chinese Government to curtail smuggling and similar malpractices, and with any procedure designed to regularize and define methods of prevention. At the same time, there should be recorded full reservation of the rights possessed under existing treaties by American commercial vessels and merchandise in Chinese ports or coastal waters or rivers.

The Department also desires that the Legation convey to the appropriate Chinese authorities, in such manner as the Legation may deem expedient, comments, based upon the Customs practice of the United States, as follows:

(1) It is highly desirable that a vessel to be boarded be made fully aware, not only that she has been signaled to stop but that she has been signaled to stop by a vessel authorized by law to board and search vessels. As of interest in this connection, it may be stated that Coast Guard vessels of the United States carry a distinctive ensign and pennant which readily identifies them. The vessels are armed and the members of the crew are in uniform so that by day the Coast Guard vessels can be distinguished from all other craft. At night, it is the practice of a United States Coast Guard vessel to play her searchlight on the distinctive Coast Guard ensign so that the vessel to be boarded may know the character of the boarding vessel. It is suggested that, under conditions prevailing on the China coast, it appears highly desirable that there be incorporated in the rules promulgated for the use of the Chinese Maritime Customs revenue launches and cruisers some procedure whereby vessels to be boarded could readily ascertain the identity of the boarding vessel.

(2) It is noted that the Chinese boarding parties are armed. As a general rule, boarding parties of the United States Coast Guard Service are unarmed, though, under certain circumstances, where the known character of the crew of the vessel to be boarded leads to

⁷ Not printed; see note of Chinese Minister for Foreign Affairs, dated October 31, 1930, *Foreign Relations*, 1930, vol. II, p. 209.

the belief that resistance may be encountered, arms are carried by the boarding party.

(3) The Chinese instructions provide that at night the searchlight shall be turned frequently on the vessel to be boarded. The rays of a searchlight thrown into the pilot house of a vessel under way, particularly in restricted waters, may cause the vessel to become unmanageable through the blinding of the navigating officer. While the cutters of the Coast Guard Service of the United States use the searchlight as a means of identifying vessels at night, great care is employed to avoid throwing the searchlight into the pilot house of a vessel to be boarded.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

393.1111 Nelson, Bert N./58: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, January 31, 1931—1 p. m.
[Received January 31—10:35 a. m.]

49. Following telegram has been sent to Nanking:

"January 31, 1 p. m. Following telegram has been received from Hankow:

'January 30, 4 p. m. A letter from Dr. Skinsnes^a states definite information has been received that Nelson and Tvedt^b are at Changhsikang near Hupeh-Anhui border and that they are both well and hopeful. Bandits are now demanding \$2,000 worth of medicines and \$3,000 cash for the release of one man and \$3,000 worth of medicines and \$22,000 cash for the other. Dr. Skinsnes continues to work through the military as I likewise do here but there has been an absence of sustained effort by the military officials to effect the release of the two men.'

Please bring this information informally to the attention of the Ministry of Foreign Affairs with the request that the military authorities be urged to press this matter to successful conclusion."

JOHNSON

393.1111 Nelson, Bert N./59: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, February 2, 1931—1 p. m.
[Received February 2—9:30 a. m.]

50. Legation's 49, January 31, 1 p. m. Following has been sent to the American Consul at Nanking:

^a Caspar C. Skinsnes, American missionary.

^b K. N. Tvedt, Norwegian missionary kidnaped with Mr. Nelson on October 5, 1930.

"February 2, 1 p. m. Following from Hankow repeated for your information:

"January 31, 1 p. m. I made a personal appeal to Mayor Liu Wen-tao this morning to telegraph General Chiang Kai-shek and suggested that he issue peremptory instructions to the military commander in the Changhsikang area to effect the early release of Nelson, failing which the commander will be held personally responsible. The Mayor promised to despatch such a telegram to General Chiang at once."

JOHNSON

893.00/11356: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, February 2, 1931—4 p. m.

[Received February 2—9:25 a. m.]

8. The following telegram has been sent to the Legation:

"February 2, 3 p. m. *Panay*¹⁰ and S. S. *Ichang*, of Yangtze Rapid Company fired upon at Temple Hill January 30. *Panay* returned fire with 11 rounds 3-inch shells. No casualties on *Panay* or steamship. Repeated to Department."

LOCKHART

893.00/11357: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, February 3, 1931—4 p. m.

[Received February 3—1:20 p. m.]

10. The following telegram has been sent to the Legation:

"February 3, 3 p. m. Steamship *Chi Chuen* and lighter No. 2, both of Yangtze Rapid Steamship Company, were fired upon by rifles from mileage 264 and at Temple Hill by rifles and mortar; also from mileage 204 where lighter was struck by scrap iron from mortar; also at mileage 117 by mortar. No casualties. Mileage 117 is an area in which attacks have not hitherto come. Repeated to Department."

LOCKHART

893.00/11358: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, February 4, 1931—4 p. m.

[Received February 4—1:15 p. m.]

12. The following telegram has been sent to the Legation:

"February 14, 3 p. m. U. S. S. *Oahu* fired upon yesterday by field piece at mileage 117. Fire silenced with twenty-two 3-inch shells and

¹⁰ U. S. river gunboat of the Yangtze patrol.

1750 rounds machine gun. No casualties on *Oahu*. Steam launch *Mei Lu*, squadron's [*Standard Oil Company?*] vessel, fired upon at mileage 204 and at Temple Hill yesterday. No casualties.
Repeated to Department."

LOCKHART

393.1111 Nelson, Bert N./66 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 10, 1931—1 p. m.

[Received March 10—5:25 a. m.]

115. [From Perkins.¹¹] Legation's 91, February 27, 5 p. m.¹² Following from American Consul General at Hankow on which Legation is taking no action since telegram was repeated direct to the Minister at Nanking:

"March 9, 3 p. m. Letter dated March 2 received today from Dr. Skinsnes at Sinyangchow states that he has received letters dated February 22 from Nelson and Tvedt. Nelson's letter reads as follows:

"We have just been bound and whipped and told to make haste with the ransom money or there would be worse things to follow."

Tvedt's letter is of same tenor stating that beating was done with bamboo poles. The old man who brought the letters to Dr. Skinsnes said that the ransom office was located at Liuchiachy¹³ 15 li east of Chiliping and that the prisoners are at Kenchiatawu which is 12 li east of Liuchiachy. The messenger stated that the prisoners looked fair but have been beaten some.

I have informed General Ho Chen-chun of the above. Considerable publicity is being given to this case at Hankow by *Central China Post*.¹⁴ Case has been made the subject of representations to local authorities by this office in writing and by personal calls on more than 22 different occasions and in many other ways efforts have been made to effect release. I am convinced that the only method of effecting the release is through the payment of ransom money as demanded and that this must be done quickly. A personal appeal to Chiang Kai-shek at Nanking might stimulate the Chinese military authorities to action or an emphatic protest lodged by the Department of State with Minister Wu at Washington might arouse the Chinese authorities to a serious effort to release the two captives.

Repeated to Nanking."

For the Minister :

PERKINS

¹¹ Mahlon F. Perkins, Counselor of Legation.

¹² Not printed.

¹³ Lichiatsai.

¹⁴ British newspaper.

393.1111 Nelson, Bert N./71

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck) of a Conversation With the Chinese Minister (C. C.
Wu)*

[WASHINGTON,] March 10, 1931.

Dr. Wu came in at Mr. Hornbeck's request.

Mr. Hornbeck imparted orally the substance of Peiping's telegram 115, March 10, 1 p. m., and handed Dr. Wu a copy of a memorandum hereto attached.¹⁵ He (Mr. Hornbeck) said that we regard an incident of this sort with great concern; that the public in this country would react more emphatically to the news of such an incident than probably would the public in China; that we realize that the Nanking Government has been making efforts to put down bandits and to effect release of captive missionaries, and we realize the difficulty which confronts them, but we hope, both for the sake of China's reputation and on behalf of our national who is thus being submitted to torture in addition to the hardships of the long captivity, that the Chinese Government will make additional efforts, its utmost efforts, to effect the release of Mr. Nelson as well as the release of other missionaries whom the bandits now have captive. Mr. Hornbeck said that we had already instructed the American Minister, who is at Nanking, to bring this matter urgently to the attention of the highest officers of the Chinese Government, and that we hoped that Dr. Wu would also emphasize to his Government the importance of the matter and urge upon them their best endeavors.

393.1111 Nelson, Bert N./71

*The Department of State to the Chinese Legation*¹⁶

[WASHINGTON,] March 10, 1931.

We are informed that letters received from Mr. Nelson and Mr. Tvedt, one an American and the other a Norwegian missionary, held captive by bandits in China, under date February 22, state that these persons have been "bound and whipped with bamboo poles and told to make haste with ransom money or there would be worse things to follow".

We hope that the Chinese Government will make every possible effort to effect the release of these men.

¹⁵ *Infra.*

¹⁶ Handed to the Chinese Minister by the Chief of the Division of Far Eastern Affairs on March 10.

393.1111 Nelson, Bert N./68 : Telegram

The Secretary of State to the Consul at Nanking (Adams)

WASHINGTON, March 10, 1931—4 p. m.

8. For the Minister: Reference Hankow's telegram of March 9, 3 p. m.,¹⁷ to the Legation, which was repeated to Nanking, with regard to Bert Nelson.

Department desires that you make urgent representations to the Minister for Foreign Affairs and, in your discretion, a personal appeal to President Chiang Kai-shek with regard to the treatment accorded by Chinese bandits to the Reverend Mr. Nelson and with regard to the long-continued failure of the Chinese authorities to effect Nelson's release. You may point out that since Nelson was captured on October 5, 1930, the Consulate General at Hankow, the Consulate at Nanking and the Legation have brought this case repeatedly to the attention of the Chinese authorities and that to date no efforts put forth by the Chinese authorities have resulted in the release of Nelson. You may say that your Government and the American people are seriously concerned over the long-continued captivity of and harsh treatment given to Nelson and his fellow captive. You should express the hope that the highest authorities of the Chinese Government may give this matter their personal attention with a view to effecting the immediate release of Nelson and his fellow captive.

The Department is making similar representations to Minister Wu.

STIMSON

393.1111 Nelson, Bert N./67 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, March 11, 1931—11 a. m.

[Received March 11—9:10 a. m.]

Referring to Hankow's March 9, 3 p. m., repeated by the Legation, following telegram has been sent American Consul General at Hankow:

"March 10, midnight. I have just seen [Foreign?] Minister who is telegraphing authorities once more to use all means to effect release [of] Nelson and Tvedt and assist those working for their release. Tell Skinsnes to go ahead."

JOHNSON

¹⁷ See telegram No. 115, March 10, from the Minister in China, p. 938.

393.1111 Nelson, Bert N./70 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, March 12, 1931—9 p. m.

[Received March 13—9:10 a. m.]

My March 11, 11 a. m. Following from American Consul General at Hankow:

"March 11, 3 p. m. Your March 10, 4 p. m. [*midnight?*] I telegraphed Skinsnes on March 9 and 10 to send medicines and money. Am sending him another telegram today. Situation is now further complicated by bandit and/or mutinous activities on railway this side of Sinyangchow".

JOHNSON

393.1111 Nelson, Bert N./74 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, March 14, 1931—1 p. m.

[Received March 14—11:30 a. m.]

21. The following to the Legation:

"March 14, noon. Doctor Skinsnes sent an additional \$3,000 yesterday through a trusted agent for ransom of Nelson. Skinsnes has not yet been able to arrange for sending medicines.

A letter has been received by me today from Nelson dated February 21 expressing gratitude for efforts made by this office to effect his release and adding 'It goes without saying that I have had my fill of this life months ago'. Repeated to Nanking with the suggestion that appropriate authorities there be requested to send peremptory orders to military officials at Sinyangchow authorizing them to issue permit for despatch of medicines. Repeated to Department."

LOCKHART

393.1111 Nelson, Bert N./76 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, March 16, 1931—4 p. m.

[Received March 17—12:02 a. m.]

22. The following telegram has been sent to the Legation:

"March 16, 3 p. m. I called again today on General Ho Chen-chun and urged upon him most emphatically the immediate necessity of rescuing Nelson and Tvedt from hands of bandits. General Ho promised to send a telegram at once to General Chao Kwan-tao at Sinyangchow instructing him to issue a permit for Dr. Skinsnes' representative to carry medicines to brigands' camp. General Ho stated that there are about 30,000 brigands in an area 500 li in length

and 200 li in breadth in northeast Hupeh east of the Ping-Han Railway.¹⁹ The area is very mountainous and General Ho claims that it is difficult successfully to attack the brigands especially as they are in scattered groups. Ping-Han Railway was cut by bandits again on Saturday near Kwangshui and traffic is now suspended. Troops despatched earlier in the week from Sinyangchow to attack brigands at Lichiatsai were thoroughly defeated, many of them being captured or voluntarily going over to brigands. The General in command, on being captured, suicided.

I consider that only plan which offers any reasonable hope of effecting release of Nelson and Tvedt in near future is one of sending money and medicines through the Chinese mentioned in my March 12, 3 p. m.²⁰ This agent has already obtained the release of 30 or 40 Chinese who were freed on the payment of sums ranging from \$300 to \$13,000.

Repeated to Nanking and Department."

LOCKHART

393.1111 Nelson, Bert N./75: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 17, 1931—6 p. m.

[Received March 17—9:40 a. m.]

142. Following from the Minister at Nanking:

"March 16, 5 p. m. Referring to Hankow's March 14, noon,^{20a} regarding ransom of Nelson, Ministry of Foreign Affairs has promised to devise means to permit despatch of medicine."

For the Minister:

PERKINS

393.1111 Nelson, Bert N./77: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, March 17, 1931—1 p. m.

[Received March 17—3:45 a. m.]

23. The following telegram has been sent to the Legation:

"March 17, noon. I have received today the following telegram from Dr. Skinsnes concerning Nelson and Tvedt:

'Letter from prisoners dated March 11th states health good, not further tortured, located Kenchiatawu 37 li east of Chiliping.'

Above information as regards location of captives has been communicated to Chinese authorities.

Repeated to Nanking and Department."

LOCKHART

¹⁹ Peiping-Hankow Railway.

²⁰ Not printed.

^{20a} See telegram No. 21, March 14, 1 p. m. from the Consul General at Hankow, n. 941.

393.1111 Nelson, Bert N./81 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, March 23, 1931—4 p. m.

[Received March 23—10:15 a. m.]

27. My 26, March 21, 1 p. m.²¹ The following telegram has been sent to the Legation:

"March 23. My March 21, 1 p. m. Telegram has been received from Dr. Skinsnes stating that 'Messengers provided with Kwangshan magistrate's pass and on strength of this pass escorted by local militia were robbed by comrades of escort. Magistrate's name Cheng Chao-kung and head of militia's name Chiu Ju-hsien.'

Telegram does not state whether money or medicines or both were seized by comrades of the escort furnished by the magistrate. I have requested General Ho Chen-chun at Hankow and General Liu Chih at Kaifeng to telegraph the magistrate urging that robbers be apprehended and stolen goods recovered. Robbery of messengers is disappointing but not wholly unexpected.

As a result of interviews with Chinese authorities on Saturday and Sunday a telegram has been sent to General Hsia Tou-ying at Macheng instructing him to effect rescue of Nelson and Tvedt and to lend cooperation to a brother of Nelson²² and two other gentlemen who left for Macheng this morning by motor car with an escort of one officer and two men. The persons proceeding this morning are carrying personal letters from General Ho to General Hsia at Macheng. Will telegraph in next few days what progress if any is being made by this plan.

Repeated to Nanking and to Department."

LOCKHART

393.1111 Nelson, Bert N./84 : Telegram

The Minister in China (Johnson) to the Secretary of State

PETTING, March 26, 1931—4 p. m.

[Received March 26—9:30 a. m.]

170. [From Perkins.] Hankow's March 23, 3 p. m.²³ Following from American Consul General at Hankow:

"March 25, 3 p. m. The three men mentioned in second [third?] paragraph of my March 23, 3 p. m., arrived at Macheng. Following telegram received from them yesterday:

'Arriving Macheng first interviewed Vice General. He said, "This is not our business and we cannot do anything." Later tried to see General Hsia but he refused an interview and sent word that what the Vice General said is just the same as though he had said it. More pressure from Hankow necessary.'

²¹ Not printed.

²² Daniel Nelson.

²³ See *supra*.

I am bringing the above to the attention of General Ho Chen-chun today. It represents still another inexcusable instance of failure of military authorities to cooperate in this matter. The most urgent instructions from highly placed officials at Nanking direct to General Hsia Tou-ying at Macheng, Hupeh, and General Ho Yung-lung at Sungpo, Hupeh, might possibly stimulate these officials to activity.

One of the three men mentioned in second paragraph of my March 23, 3 p. m., has returned to Hankow and informed me that military authorities at Macheng state that they are under orders only to defend that area and that they have no orders to advance against Red brigands. If the Nanking authorities seriously desire to effect rescue of Nelson and Tvedt it would seem to be in order to issue orders that will put the military to work at Macheng and Sungpo. There are approximately 10,000 Government troops in the area, some of them within 8 miles of Kenchiatawu and most of them not more than 25 miles away.

Repeated to Nanking for the Minister's consideration."

For the Minister:
PERKINS

393.1111 Nelson, Bert N./86: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 28, 1931—noon.
[Received March 28—5:55 a. m.]

173. [From Perkins.] Legation's 170, March 26, 4 p. m. The Minister instructs that he has sent the following telegram to the American Consul General at Hankow:

"Your March 23, 4 p. m. [*3 p. m.?*], and March 25, 9 p. m. [*3 p. m.?*]. Ministry of Foreign Affairs promises to have urgent telegraphic instructions issued today direct to General Hsia Tou-ying at Macheng ordering him to advance against Red brigands and effect release of Nelson and Tvedt. Please endeavor to ascertain whether such instructions are received by General Hsia and what action is taken by him."

For the Minister:
PERKINS

393.1111 Nelson, Bert N./89: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 30, 1931—3 p. m.
[Received March 31—9:10 a. m.]

178. [From Perkins.] Legation's 170, March 26, 4 p. m. American Consul General at Hankow reports that he has sent the following telegram to the Minister at Nanking:

"March 30, 5 p. m. Your March 27, noon. A letter dated March 23 received at Hankow today from Bert Nelson states that on day letter

was written airplanes had flown over KENCHIATAWU. Postscript to letter states 'fleeing in haste'.

Daniel Nelson telegraphs from Macheng that General Hsia Tou-ying has left there for Hankow. If it develops that he is here I shall seek an interview."

For the Minister:
PERKINS

393.1111 Nelson, Bert N./90 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, April 2, 1931—4 p. m.
[Received April 2—1:50 p. m.]

182. Legation's 170 [178], March 31 [30?], 3 p. m. Following from American Consul, Hankow:

"April 1, 3 p. m. The following telegram has been sent to Nanking:

'April 1, 3 p. m. My March 30, 4 p. m. For the Minister: In an interview with General Ho Chen-chun on Monday and today with General Li Ming-chung, who is the director of bandit suppression on the Hupeh, Honan and Anhwei borders, I again urged upon them the necessity of a constructive and sustained effort to effect release of Nelson and Tvedt. They both claim insufficient forces available for advance at this time against Red brigands in northeast Hupeh but I received distinct impression the Nanking authorities are now placing the onus of suppressing the brigands and also effecting the rescue on these two generals especially the last named. General Li stated that he has received instructions direct from C. T. Wang. Indications are that a drive will be shortly started, for the first time, against the brigands by sending additional troops to southern Honan and northern Hupeh. General Li is leaving for southern Honan soon. He added the fact that General Hsia is his subordinate commander and that Hsia has not received direct instructions from Nanking and that in any event instructions to Hsia would be sent through him (General Li) which has been done.'

For the Minister:
PERKINS

393.1163/489

The Minister in China (Johnson) to the Secretary of State

No. 914

PEIPING, April 2, 1931.
[Received April 25.]

SIR: With reference to despatch No. 1151, of February 13, 1931, addressed to the Legation by the American Consul General at Hankow,²⁴ and to previous despatches from Mr. Lockhart regarding

²⁴ Not printed.

the occupation by Chinese troops of the premises of the American Catholic Mission in Kiangsi Province, copies of which have been from time to time transmitted to the Department without covering despatch, I have the honor to state that, although to the Department this case of military occupation of American mission property may appear particularly flagrant, it is believed to be typical of many, and its consideration in some detail would seem to be warranted.

The Department will recall that the present occupation of Catholic Mission property in Kiangsi was reported to it in the Legation's telegrams No. 476, of June 20, 1930, 7 p. m.,²⁵ and No. 743, of August 25, 1 p. m., 1930,²⁶ and that copies of Mr. Lockhart's despatch to the Legation No. 1046, of September 4, 1930, enclosing copies of an exchange of correspondence with Bishop Sheehan,²⁵ were sent by him directly to the Department. On September 4, 1930, 12 noon, the American Consul General at Hankow telegraphed the Legation that he had received a telegram from Bishop Sheehan, stating that the residence at Poyang (Jaochow) had been forcibly occupied by Government soldiers under Lu Ti-p'ing; Mr. Lockhart stated that he had telegraphed representations to General Lu Ti-p'ing, the Chairman of the Kiangsi Provincial Government, but suggested, in view of the repeated violations by soldiers of the National Government of American property in Kiangsi, that a protest be made by the Legation to the Ministry of Foreign Affairs. Accordingly, on September 6, 1930, 5 p. m., the Legation telegraphed the following to the Ministry of Foreign Affairs through the American Consulate at Nanking:

"I have the honor to inform Your Excellency that the American Consul General at Hankow reports the forcible occupation of the Catholic Mission's residence at Poyang, Kiangsi, by Government troops under the control of General Lu Ti-p'ing, and to request that General Lu be instructed by telegraph to order these troops to vacate this American property and to issue strict instructions prohibiting the occupation of the Mission's premises."

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Under date of September 16, 1930, the Division of European and American Affairs of the Foreign Office addressed a reply to the American Consulate at Nanking to the Legation's telegraphic message of September 6, 5 p. m., quoted above. This reply quoted a report submitted to the Ministry by General Lu, to the effect that he had directed the Magistrate concerned to investigate and cause the property to be vacated. A copy of this communication, in translation, is enclosed herewith.²⁵ Had General Lu actually issued instructions of this na-

²⁵ Not printed.

²⁶ *Foreign Relations*, 1930, vol. II, p. 177.

ture, intended to meet with compliance, the reply might be considered satisfactory. However, on the same date as that of the note from the Ministry, the American Consul General at Hankow telegraphed the Legation (September 16, 6 p. m.), reporting that Bishop Sheehan had on September 14th and 16th sent urgent telegrams to the Consulate General, stating that the Yükianghsien residence was still occupied. Mr. Lockhart reported that he had again brought the matter to the attention of General Ho Ying-ch'in, and suggested, in view of the fact that the property was at that time still occupied by troops, that the Legation again make telegraphic representations to the Ministry of Foreign Affairs.

Accordingly, under date of September 17, 7 p. m., the Legation telegraphically instructed the American Consul at Nanking to deliver a note to the Ministry of Foreign Affairs, a copy of which is enclosed,²⁷ briefly reviewing the action already taken in connection with military occupation of the Catholic property in Kiangsi, and, in view of the repeated assurances of the Chinese Government of its intention and ability to protect American life and property and in particular to prevent the occupation of American mission property in the interior, earnestly requesting the Minister for Foreign Affairs not only to adopt adequate measures to effect the removal of the troops in occupation of the property in question but also to issue the strongest possible instructions prohibiting the occupation of American mission property in the interior. In response to this telegram, on September 22, 1930, the Division of European and American Affairs of the Ministry made to the Consulate at Nanking a purely *pro forma* reply, briefly rehearsing its former note. A copy, in translation, of this quite unsatisfactory reply is transmitted for the Department's information.²⁷ It will be noted that the Ministry misquotes the Legation's telegram as requesting, in addition to the evacuation of the property, "that adequate protection be afforded." The attitude thus revealed was particularly unwelcome since the Chinese authorities appear to see nothing inconsistent with "protection" in the occupation and wanton damaging and even destruction of property by troops.

The occupation by Chinese troops of the Mission property at Jaochow was reported by the Ministry of Foreign Affairs to have been terminated in an unexpected manner:

In a note to the American Consulate at Nanking dated September 30, 1930, copy of which in translation is enclosed herewith,²⁷ the Division of European and American Affairs of the Foreign Office stated that Poyanghsien had been occupied by bandits and the Government

²⁷ Not printed.

troops had withdrawn. According to the Ministry's report, therefore, the so-called communists readily effected what the Ministry of Foreign Affairs was unwilling or unable to accomplish. However, a reperusal of despatch No. 1100 (erroneously numbered 1010) of December 2, 1930, to the Legation from Mr. Lockhart, and of the letter addressed to him by Bishop Sheehan enclosed therewith, is enlightening in this connection.³³ (This despatch was forwarded to the Department by the Legation without covering despatch on December 18, 1930.)

The Department will note from despatch No. 1077, of October 25, 1930, from the American Consul General at Hankow (copies of which were forwarded to the Department by the Legation without cover on November 20, 1930),³³ that the premises of the Catholic Mission in Yükianghsien and its residence at Fouchow were still occupied on October 23, 1930. That despatch enclosed a telegram addressed to Mr. Lockhart by Bishop Sheehan, which the Consul General conservatively entitled "Plain language." The Department will recall that in his despatch No. 1082, of November 3, 1930, to the Legation, a copy of which was forwarded to the Department without covering despatch,³³ Mr. Lockhart stated that he had been informed by Bishop Sheehan in a letter dated October 24, 1930, that the Mission's residence at Yükianghsien was still occupied by soldiers, who were taking the stone from the Mission compound wall to use in repairing the walls of the town.

On December 27, 1930, 11 a. m., the American Consul General at Hankow telegraphed the Legation that he had received a telegram from Bishop Sheehan at Anjen, Yükianghsien, Kiangsi, dated December 26th, as follows:

"Government orders to Hsien Government no effect. Tell Nanking instruct army. Occupation continues. To-day more tried to get in here."

Mr. Lockhart stated that he had again telegraphed General Lu Tip'ing requesting that he take effective measures to have the troops removed from the property of the Catholic Mission at Anjen (Yükianghsien). Under date of December 29, 1930, 12 noon, Mr. Lockhart again telegraphed the Legation as follows:

"December 29, 12 noon. A letter from Bishop Sheehan at Yükiang dated December 21 states that properties of the Catholic Mission are now forcibly occupied by soldiers in Fuchow, Kingtehchen, Tsungjen, Kweiki, Loping, Wanlien, Iyang, and Yükiang, all in Kiangsi Province. The Bishop states 'in no single instance is there the slightest vestige of necessity for occupation', and that there are

³³ Not printed.

other buildings available for quartering troops. The Bishop suggests that the Minister should 'speak quite plainly to Nanking about these things.'

Mr. Lockhart's telegram above quoted was transmitted by the Legation to Minister Johnson at Nanking under date of December 30, 11 a. m. The Legation's records indicate that on December 30, 1930, Minister Johnson took the matter up orally with Mr. Hsü Mo of the Ministry of Foreign Affairs. In addition, on December 31, 1930, the Legation addressed a note, No. 219, to His Excellency, the Minister for Foreign Affairs, pointing out that the occupation of the Mission's premises continued and that the orders of the Magistrate were apparently without effect. It was requested that His Excellency take the necessary steps to cause instructions to be issued to the military at Yükianghsien to evacuate this American property without further delay.

Under date of January 14, 3 p. m., Mr. Lockhart sent the Legation the following telegram:

"Following telegram dated to-day received from Bishop Sheehan:

'Soldiers under Hsiao Tuan-chang, 5th Division, 13th Lu, 29th Tuan, have occupied Yükiang residence, prevent me from entering. Magistrate Mao sent men to lead them to the residence. Tell Lu Ti-p'ing and Nanking to get them out at once.'

"As this occupancy was apparently directly aided by civil authorities, it is being reported by telegraph.

"I have telegraphed representations of Lu Ti-p'ing, but in light of previous experiences am not expectant of desired results."

On the basis of this telegram and of despatch No. 1134, of January 23, 1931, from Mr. Lockhart, a copy of which is transmitted herewith,³⁴ on February 5, 1931, the Legation addressed a further note to the Ministry of Foreign Affairs, pointing out the utter inadequacy of such measures as might have been previously adopted to bring about the evacuation of premises already occupied by Chinese troops, and requesting that there be supplied the Legation proclamations forbidding the occupation of this American Mission property.

From the letter transmitted with Mr. Lockhart's despatch No. 1134, of January 23, 1931, addressed to him on January 14, 1931, by the Right Reverend Edward T. Sheehan,³⁴ it will be noted that Bishop Sheehan feels that the National Government has never taken any steps to prevent the occupation of residences, nor to force soldiers to evacuate properties occupied, and he states as his belief that the National Government is doing everything possible in the interior, at least in Kiangsi Province, to make life unbearable for foreigners.

³⁴ Not printed.

The Department's attention is also invited to Mr. Lockhart's despatches to the Legation No. 1142 and No. 1151, respectively dated February 5 and 13, 1931,³⁸ copies of which were transmitted to the Department without covering despatch.

On February 21, 1931, a note, No. 249, was received from the Ministry of Foreign Affairs in reply to the Legation's note of February 5th, stating that the Kiangsi Provincial Government had been telegraphically requested to investigate the matter and take action. There were enclosed with the Ministry's note ten copies of a proclamation issued by the Ministry of Military Administration. Copies, in translation, of the Ministry's note and of the proclamations are transmitted herewith.³⁹ However, under date of February 25, 2 p. m., the American Consul General at Hankow telegraphed the Legation quoting the following telegram which he had received from Bishop Sheehan:

"Yükiang residence still occupied by Government soldiers, no examination made of damage done by soldiers of 5th Division. Local Magistrate Mao encourages occupation, does nothing to protect properties."

It would thus appear that any action taken by the Ministry of Foreign Affairs at Nanking or the provincial authorities in Kiangsi continued to be quite ineffectual.

The Department will note from a letter addressed to Mr. Lockhart on February 26, 1931, by General Lu Ti-p'ing, enclosed with Hankow's despatch No. 1161, of March 3, 1931, to the Legation, a copy of which is transmitted herewith³⁹ (despite the fact that in the Ministry of Foreign Affairs' note of February 21, 1931, it was stated that a telegram had been sent to Kiangsi Provincial Government requesting investigation and action), General Lu Ti-p'ing, Chairman of the Kiangsi Provincial Government, admitted that troops had "borrowed" the use of the property, but denied that this constituted an occupation, and seemed to feel that the alleged brief duration of the stay of the successive military units invading the Mission constitutes a decided palliation, if not a justification, of the actions complained of.

In his despatch to the Legation, No. 1168, of March 13, 1931, copy of which is transmitted herewith,³⁹ Mr. Lockhart encloses a copy of a letter addressed to him on March 7, 1931, by General Lu Ti-p'ing, quoting a report of the Yükianghsien Magistrate to the effect that on February 13th, Anjen (Yükianghsien) was completely filled with refugees and troops and that the use of the Catholic Mission premises for the quartering of Colonel Hsiao's regiment of the 5th Division was necessary, and, furthermore, was assented to by the Mission watch-

³⁸ Neither printed.

³⁹ Not printed.

men. The Magistrate is quoted as stating that the discipline of Colonel Hsiao's regiment was very strict, that they did not occupy the Bishop's residence, and that the accusation that they damaged furniture is false. The Magistrate alleges that, because of his deep detestation of the stationing of troops in the Mission, Bishop Sheehan has "inevitably" exaggerated in his report.

The Legation trusts that a careful review of the correspondence growing out of this case will convince the Department that the Consul General at Hankow and the Legation in their several representations to the local officials of Kiangsi and the officers of the National Government at Nanking, respectively, have left no stone unturned and have spared no effort in their endeavors by diplomatic means to put an end to this example of the flouting of the rights guaranteed to American citizens under the Treaties. The Legation is reluctantly inclined to the opinion, based in part on otherwise unrelated incidents, reports of which are embodied in various despatches from consular officers, that the National Government is deliberately working toward the conscious end of rendering impossible the carrying on in China of all foreign missionary activities, with the possible exception of medical work. In order to have definite and compact data for a searching investigation into this aspect of the matter, on February 27, 1931, the Legation addressed a circular instruction to American consular officers in China, directing that they submit reports covering their respective consular districts, commenting on the extent to which American missionary interests have suffered as the result of illegal occupation of property, uncontrolled banditry, and general anti-religious and anti-foreign sentiments. A comprehensive report will be made to the Department by the Legation later.

In the meantime, it seems to the Legation significant that, in the three Eastern Provinces where the influence of the National Government is merely nominal, the Consulate General at Mukden reports:

"I have the honor to state that this Consular District has been apparently free from most of the above mentioned scourges. . . .

"As is well known there has been no illegal occupation of mission property in this area. . . .

"From an examination of the files of this office and from conversations with missionaries, it would not appear that anti-religious and anti-foreign feeling has had any appreciable effect on missionary activity in this Consular District. . . ." ⁴⁰

The Consul at Harbin reports:

"I have the honor . . . to report that the missions of this Consular District have not suffered from any depredations or losses resulting

⁴⁰ Omissions indicated in original despatch from the Minister.

from illegal occupation of property, uncontrolled banditry, or general anti-religious and anti-foreign sentiment. . . . The heads of missions have stated that they have never been molested or troubled by any of the causes mentioned above and have never been subjected to any losses, personal or otherwise. They further stated that the Chinese authorities in this district have always been very just and considerate, have never attempted to hinder their work but, on the contrary, have always considered their interests and attempted to help them. . . ."⁴¹

It must be borne in mind that during the period reported on, that is, from 1926 to the present time, there has been warfare on a large scale in Manchuria and that the numbers of soldiers in the districts where missionary enterprises are being carried on are proportionately greater than in other parts of China under the control or the strong influence of the National Government, where American missionary property has been repeatedly occupied and wantonly damaged and destroyed. In most cases it has been reported to the Legation that Chinese troops have occupied mission property in preference to Chinese property where plenty of the latter was available, and it is not believed that this can be attributed to the desire of the military for superior buildings, since, at the termination of an occupation by Chinese troops, of however brief duration, the property occupied has been damaged to such an extent that it is left in a condition infinitely worse than that of the Chinese-owned property which has happily escaped.

It is possible that representations made by the Department to the Chinese Minister at Washington might cause him to bring before his Government the idea that such cases as the one discussed at length above, which is only one of many, may properly cause a section of the American public to feel some doubt of the ability and desire to protect American property professed by the Government at Nanking.

Respectfully yours,

For the Minister:
MAHLON F. PERKINS
Counselor of Legation

893.00/11394 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 6, 1931—4 p. m.

[Received April 6—9:55 a. m.]

32. The following telegram has been sent to the Legation:

"April 6, 3 p. m. Steamship *Iling* of Yangtze Rapid Steamship Company was heavily fired upon from both banks river at mileage 60 above Ichang yesterday. Ship was struck many times and one member of Chinese crew badly wounded. This attack tends to confirm recent rumors that Ho Lung's bandit forces have been driven

⁴¹ Omissions indicated in original despatch from the Minister.

to the upper river from northwest Hunan. These forces are probably responsible for the attack on *Iling*.

Unconfirmed reports are current in Hankow that some fighting took place in Szechuan last week between the Liu Hsiang and Teng Shih-an factions.

Repeated to the Department."

LOCKHART

393.1111 Nelson, Bert N./95 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 7, 1931—4 p. m.

[Received April 7—10:40 a. m.]

The following telegram has been sent to the Legation :

"April 7, 3 p. m. Letters dated March 26 received by Dr. Skinsnes from Nelson and Tvedt state that they are well and that 70 Chinese prisoners are being held with them for ransom. Brigands, who have received the medicines sent by Dr. Skinsnes, are now demanding \$20,000 for release of Nelson and Tvedt. Efforts are now being made to effect release by paying reduced ransom through secret agents from Sungpu but on condition that the two captives be first delivered to a designated point between Sungpu and present bandit stronghold.

Repeat[ed] to the Department."

LOCKHART

893.00/11412

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Chinese Minister (C. C. Wu)

[Extract]

[WASHINGTON,] April 8, 1931.

Mr. Hornbeck said that we were all watching with interest the efforts which were being made to effect the release of Mr. Bert Nelson. Dr. Wu said that he thought his Government was actively endeavoring to effect this release, but that it was hard to catch bandits; if military forces pressed too hard the bandits might do violence to the captives; if they do not press hard enough, the bandits continue to hold the captives. Mr. Hornbeck said that he hoped that the release might be effected soon.

Mr. Hornbeck handed the Minister a memorandum⁴³ containing an account of mission property which had been forcibly occupied and

⁴³ Not found in Department files.

apparently was being appropriated by Chinese in Fukien Province. He said that he hoped that the Minister would give this account some thought.

S[TANLEY] K. HORNBECK

893.00/11399 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 9, 1931—1 p. m.
[Received April 9—10:40 a. m.]

34. The following telegram has been sent to the Legation :

"April 9, noon. Steamship *Iping* of Yangtze Rapid Steamship Company fired upon yesterday at Kueichow above Ichang by Red brigands and heavily fired upon at mileage 5 above Ichang by Government troops. Armed guard from U. S. S. *Guam* on board *Iping* returned fire in both cases. *Iping's* Chinese quartermaster seriously wounded in last attack and Leon Bradley, seaman first class, of armed guard wounded in the foot. Since fire was directed solely at bridge it is evident effort was being made to stop vessel for search for Communists who have been active recently above the point of attack.

Repeated to the Department."

LOCKHART

893.00/11401 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 13, 1931—noon.
[Received 4:55 p. m.]

35. My 34, April 9, 1 p. m. The following telegram has been sent to the Legation :

"April 13, 11 a. m. My April 9, noon. Steamship *Iping* arrived Hankow yesterday afternoon. Captain Andersen informed me that he was in the act of turning and anchoring his vessel in response to signal from shore when national troops opened fire on vessel where-upon vessel proceeded ahead at full speed. The armed guard from the U. S. S. *Guam* which was not expecting an attack and which had partially packed up its equipment returned the fire. Captain Andersen stated that he had not received previous notice of establishment of inspection station at point of attack. He also stated that there were several casualties among the government troops and that General Koh, garrison commander at Ichang, has referred the matter to Nanking with the request that representations be made to the American Minister there. General Koh is also demanding that the names of all armed guard officers and men, dates of sailings and names of vessels

be furnished military authorities before sailings. The vernacular newspapers at Ichang are proclaiming that armed guard opened fire first and that no less than 20 soldiers were killed. Incident has apparently created considerable feeling at Ichang.

Repeated to Nanking and to Department."

LOCKHART

893.00/11492

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the American Minister in China (Johnson)*⁴³

[Translation]

SIR: I have the honor to inform you that a telegram has been received from the Ichang Area Garrison Headquarters, stating:

"Since the Red bandits under Ho Lung were recently commandeering vessels in the upper course of the river above Ichang with a view to pressing upon Ichang, a circular telegram was despatched some time ago announcing that the various merchant vessels should temporarily suspend sailings in order to avoid danger. With the object of strengthening defenses, detachments were sent to take precautions and examine the vessels sailing down river in order to prevent anything untoward.

"Inadvertently on the 8th instant, S. S. *Iping* of the Yangtze Rapid Steamship Company sailed down river. She was ordered to stop. She sweepingly fired machine guns. More than twenty officials and soldiers were either killed or wounded. Please hold negotiations at once."

The Ichang Area Garrison Headquarters sent its detachments to take precautions by examining the vessels sailing down river in order to prevent the Red bandits from pressing upon Ichang. This is of course a proper measure. The S. S. *Iping* refused to obey the orders for search, but instead, she sweepingly fired machine guns. Many officials and soldiers were then killed or wounded. The Chinese Government cannot conceal its great surprise. Aside from reserving the right to claim indemnification for losses, I have the honor, Mr. Minister, to indite this preliminary formal note for your information, and to request that instructions be issued to find out the persons who created the trouble in order that they may be punished according to law. You are also requested to give assurance that American vessels will not cause the occurrence of such incidents, and to favor me with a reply.

WANG CHENG-TING

[NANKING,] April 13, 1931.

⁴³ Copy transmitted to the Department by the Minister in China in his despatch No. 962, May 2; received June 11.

893.00/11492

*The American Minister in China (Johnson) to the Chinese Minister
for Foreign Affairs (C. T. Wang)*⁴⁴

NANKING, April 18, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's formal note of April 13, 1931, concerning the firing on the S. S. *Iping*, a vessel of the Yangtze Rapid Steamship Company, on April 8, 1931 at a point about five miles above Ichang. It is noted that the report submitted to Your Excellency by the Precautionary Defense Headquarters at Ichang alleges that the S. S. *Iping* failed to stop when ordered to do so and opened fire with machine guns, killing and wounding some twenty soldiers.

In this connection I desire to inform Your Excellency that this matter has already been brought to my attention by the Commander-in-Chief of the United States Asiatic Fleet who reported that the vessel in question while proceeding from Chungking was suddenly and without any warning whatever, heavily fired upon at a point about five miles above Ichang and that when fire was opened she stopped. The firing increased in intensity and in order to extricate herself from a difficult position and defend and protect those on board, it became necessary to open fire in self defense and steam at full speed from the vicinity. Three persons were wounded aboard the S. S. *Iping*, one seriously. The Commander-in-Chief further reported that as the S. S. *Iping* steamed into the harbor of Ichang a notification was published that merchant vessels would be inspected at the Customs Station at San Yu Tung, for the purpose of ascertaining whether or not there were any communists aboard.

Inasmuch as no information regarding the intention of the Chinese authorities to stop and search vessels in the vicinity of Ichang had been given to American consular or naval officers prior to this incident it was obviously impossible for the S. S. *Iping* to know that such a procedure had been suddenly instituted by the Chinese authorities. Furthermore, I desire to call Your Excellency's attention to the fact that the S. S. *Iping* did stop when first fired upon but that as the fire from the shore did not cease but increased in intensity it became necessary for her to proceed ahead at full speed and to return the fire in order to extricate herself from a difficult situation.

Both the Commander-in-Chief of the United States Asiatic Fleet and I regret the incident which appears to have been due entirely to a misunderstanding on both sides, as well as the fact that information

⁴⁴ Copy transmitted to the Department by the Minister in China in his despatch No. 962, May 2; received June 11.

regarding the procedure instituted by the Chinese authorities at San Yu Tung had not been disseminated before the incident.

I avail myself [etc.]

NELSON TRUSLER JOHNSON

893.00/11493

The American Minister in China (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang) ⁴⁵

NANKING, April 18, 1931.

EXCELLENCY: I have the honor to inform Your Excellency that I am in receipt of a report from the American Consul General at Hankow to the effect that the S. S. *Itu* of the Yangtze Rapid Steamship Company was boarded at Kweifu, Szechuan by armed nationalist forces on the evening of April 15, 1931 who demanded transportation for approximately two hundred troops to Ichang. Upon the request being refused approximately fifty soldiers boarded the vessel and threatened the passengers and Master and stated that the ship would be detained for three or four days if the demand was not complied with. The S. S. *Itu* finally sailed the next morning with some fifteen officers on board who disembarked upon the arrival of the S. S. *Itu* at Ichang.

I must strongly protest against such illegal acts on the part of Nationalist troops who forcibly boarded an American vessel, demanded transportation for some two hundred of their number and detained it upon their demand being refused. It must be apparent to Your Excellency that such unwarranted acts may result in the most unfortunate incidents and I am, therefore, constrained to request that Your Excellency's Government issue immediate instructions to the appropriate military authorities at Ichang, Kweifu and elsewhere to prevent the recurrence of such unlawful acts.

I avail myself [etc.]

NELSON TRUSLER JOHNSON

393.1111 Nordlund, Esther/22

Memorandum by the Minister in China (Johnson) ⁴⁶

NANKING, April 20, 1931.

I called upon the Minister for Foreign Affairs today and presented to him an *Aide-Mémoire* ⁴⁷ reporting the capture by bandits of Esther Nordlund, Oscar Anderson and Augusta Nelson. I stated that the American Government would expect the Chinese Government to take

⁴⁵ Copy transmitted to the Department by the Minister in China in his despatch No. 963, May 2; received June 11.

⁴⁶ Copy transmitted to the Department by the Minister in his despatch No. 959, May 2; received June 11.

⁴⁷ Not printed.

immediate steps to effect their release, particularly as Miss Nordlund was an American citizen.

Dr. Wang stated that he had already been apprised of this unfortunate occurrence and that orders had been issued to the responsible authorities to take steps to effect the release of the captives. Dr. Wang stated that when individuals got into the hands of communists it was a very difficult matter as the communists set a high value upon captives not only because of the embarrassment caused to the Government but because of their high money value. He said that the Government was very anxious that we tell our missionaries not to leave the cities and travel about in view of the great danger of such happenings.

I said that we had already warned our missionaries not to travel in the interior but that they were apparently deceived by what appeared to be peaceful conditions and took risks.⁴⁸

Dr. Wang stated that the Government's policy in the suppression of communists had been a failure, that first they had tried to use local troops, but these were likely to make common cause with their fellow provincials. The Government had then begun the use of northern troops but these had failed because they were ignorant of the people and the terrain. He said that a third policy was now being adopted which he thought would be successful. He had urged it upon General Chiang. He said that the Kuomintang had started out with a campaign against landed gentry with the result that the responsible gentry throughout the country had become frightened. They had taken all of their liquidatable property and had fled to the cities such as Shanghai with the result that the interior places had been deprived of the leadership of such people. He said that the policy of the Government now was to encourage these people to return. He said that he believed this policy would be successful in the end although it would take a long time.

I said that the danger of this policy was that the farming population which had seized the lands of the gentry would be persuaded by this policy that the Government intended to restore to the gentry the lands thus seized and that the result would be that the farmers would make common cause with the communists against the Government. I said that I thought the thing to do was for the Government to win the support of the farmers by guaranteeing to them title and possession of the lands which they had taken, that the Government might then compensate the landed proprietors for the loss of their land by pension or by the payment of lump sums.

NELSON TRUSLER JOHNSON

⁴⁸ Release of the three missionaries was reported to the Department by the Consul General at Hankow in his telegrams No. 40, April 24, 11 a. m., and No. 59, July 6, 11 a. m. (393.1111 Nordlund, Esther/7, 24).

393.1111 Nelson, Bert N./100 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 20, 1931—11 a. m.

[Received April 20—9:25 a. m.]

38. My April 7, 3 p. m. [4 p. m.] The following telegram has been sent to the Legation :

"April 20, 10 a. m. My April 7, 3 p. m. Tvedt has been released on payment of \$6,500 by mission authorities. Prospect for early release of Nelson is favorable. It was deemed advisable not to send in to brigands the entire sum demanded for both captives. Therefore, only one, Tvedt, who is a man of family, was released. Remaining sum will now be sent in for Nelson's release. Repeated to the Department and Nanking."

LOCKHART

393.1111 Nelson, Bert N./103 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 21, 1931—4 p. m.

[Received 9:08 p. m.]

39. The following telegram has been sent to the Legation :

"April 21, 3 p. m. Tvedt arrived in Hankow yesterday afternoon. In addition to money demands, brigands now desire mission authorities to supply gramophone records, tennis rackets and balls, basketballs, chess boards, wrist watches, fountain pens, footballs, fresh fruit and ammunition and other things. Some of the above not including fresh fruit or ammunition are being sent today to Sungpu. Nelson is well and brigands have promised to release him on receipt of \$10,000 less amount expended for articles sent today. If the brigands keep their promise Nelson should be released within a week.

General Ho Chen-chun states that he has sent telegraphic instruction to General Kuo at Ichang to do his utmost to effect release of the three missionaries referred to in my April 19, 11 a. m.⁴⁹

Repeated to Nanking and Department."

LOCKHART

893.00/11545

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the American Minister in China (Johnson)*⁵⁰

[Translation]

SIR: With reference to the sweeping machine-gun fire directed against officers and soldiers above Ichang by the Yangtze Rapid Steam-

⁴⁹ Not printed ; see memorandum by the Minister in China, April 20, p. 957.

⁵⁰ Copy transmitted to the Department by the Minister in China in his despatch No. 1044, June 23; received July 20.

ship Company's S. S. *Iping*, I have the honor to acknowledge the receipt of your formal note of April 18, 1931, wherein it was stated that the officers and soldiers did not warn the vessel to stop, but opened fire on it, thus resulting in a misunderstanding.

This Ministry again telegraphed the Ichang Area Garrison Headquarters to investigate the matter and make a reply. A reply has now been received stating:

"When the S. S. *Iping* was about to pass through the line of defence at Sanyutung, a point above Nanchingkuan, sentries waved red flags and loudly told the vessel to stop. The River at that place is very narrow, and it was not impossible for those on board to hear the shouts and to see the flags. The S. S. *Iping*, instead of stopping, opened fire with machine-gun on the shore. Twenty-five officers and soldiers were wounded, four of whom received serious injuries and may not live."

I have the honor, Mr. Minister, to indite this formal note for your information, and again to request that the persons who started the trouble be appropriately punished, and that measures be taken to prevent the recurrence of such acts in future. It is not known whether the four officers and soldiers who were seriously wounded will live or die. Even if they are fortunate enough to live, it is not certain that they will not be permanently disabled. I therefore have the honor again to reserve the right to claim indemnification for losses, and to request the favor of a reply.

WANG CHENG-TING

[NANKING,] May 1, 1931.

393.1111 Nelson, Bert N./109 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, May 4, 1931—4 p. m.

[Received May 4—10:05 a. m.]

43. The following telegram has been sent to the Legation:

"May 4, 3 p. m. My April 28, 1 p. m.⁵¹ The go-between returned to Hankow Saturday night and reported Red brigands declined to release Nelson and are insisting on delivery of 30 tins of gasoline and in addition two sewing machines. Go-between returned to Sungpu yesterday morning taking with him two sewing machines and 30 tins of gasoline. He was accompanied to Sungpu by Nelson's brother, Daniel Nelson. Active military operations were started against the Red brigands in northeastern Hupeh several days ago by Government troops and several towns including Chiliping, a communist stronghold, have been cap-

⁵¹ Not printed.

tured by the troops under General Li Ming-chung. It is hoped that Nelson may be released before these operations reach the vicinity where he is now being held.

Repeated to Department."

LOCKHART

393.1111 Nelson, Bert N./114 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, May 11, 1931—2 p. m.
[Received May 11—10:40 a. m.]

46. My May 4, 4 p. m. The following telegram has been sent to the Legation.

"May 11, 1 p. m. My May 4, 3 p. m. The following telegram has been received from Sungpu.

'Heavy rains and floods delaying messenger's return. Communists more active than ever here and neighboring places. Arrangements have been extended.'

Military would not permit delivery of materials mentioned in my May 4, 3 p. m.; negotiations are therefore proceeding on another basis. Repeated to the Department."

LOCKHART

893.00/11454 : Telegram

The Consul General at Canton (Ballantine) to the Secretary of State

CANTON, May 20, 1931—2 p. m.
[Received May 22—9:31 p. m.]

Commissioner of Customs, Hoilhow, has telegraphed Commissioner, Hong Kong, that fighting is occurring in Hainan and situation is critical. British Consul General has requested naval authorities to send British warship there. Commander of the *Helena*⁵² has communicated this information to Commander of the South China Patrol in Hong Kong.

Three weeks ago and also last week I communicated by mail with American mission on the above urging preparations for evacuation in case of necessity.

Repeated to Department, Legation and Nanking.

BALLANTINE

⁵² U. S. cruiser.

893.00/11460 : Telegram

The Consul General at Canton (Ballantine) to the Secretary of State

CANTON, May 24, 1931—11 p. m.

[Received May 24—3 p. m.]

Referring to my telegram May 23, 3 p. m.,⁵³ message from senior American missionaries, Hoihow, received by radio through courtesy of British naval authorities states that all American missionaries safe.

British Consulate has also received a message stating that on the 21st and 22nd fighting occurred around Hoihow between Canton and Nanking troops. Latter were defeated and are being disarmed by Cantonese. As a safety measure foreign women and children were embarked yesterday on a merchant vessel, but it is proposed to disembark them today. Commander of H. M. S. *Somme* considers it advisable to remain Hoihow until situation returns to normal.

Repeated to Department, Legation, and Nanking.

BALLANTINE

393.1111 Nelson, Bert N./118 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, May 29, 1931—5 p. m.

[Received May 29—9:15 a. m.]

49. My 46, May 11, 2 p. m. Following sent to Legation :

"May 29, 5 p. m. My May 11, 3 p. m. [1 p. m.?] Go-between has returned empty handed and states bandits are making fresh demands. Letter dated May 16 has been received in Hankow from Bert Nelson confirming the above but not enumerating the demands. Go-between is returning to headquarters of bandits to inform them that nothing more either in money or supplies will be furnished and to insist upon fulfillment of obligation to release Nelson on conditions previously named which have been met in full even including the materials mentioned in my May 4, 3 p. m. Result of these further efforts will not be known for about 10 days.

Repeated to the Department."

LOCKHART

893.00/11484 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, June 9, 1931—11 a. m.

[Received June 9—2 a. m.]

328. [From Engert.⁵⁴] Following from American Consul at Foochow :

⁵³ Not printed.⁵⁴ Cornelius Van H. Engert, First Secretary of Legation.

"June 8, 2 p. m. General Liu Ho-ting of 56th National Division now at Yenping, Fukien, and planning to make a stand against the Reds at that place. The remnant of the Fifty-sixth Division, the only troops loyal to Nanking in this Consular District, are the only reliable troops between Foochow and the Reds. The Fifty-sixth Division believed to be far outnumbered. I would like to learn if Nanking is planning to send reenforcements.

Owing to the present uncertain situation and the difficulty and unreliability of land communications it is respectfully recommended that an United States naval vessel be sent to Foochow in order that this Consulate may have some certain means of communication with the Legation."

Repeated to Minister at Shanghai and to Commander in Chief United States Asiatic fleet.⁵⁵

For the Minister:
ENGERT

393.1111 Nelson, Bert N./121: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, June 11, 1931—5 p. m.
[Received 5:15 p. m.]

54. The following telegram has been sent to the Legation:

"June 11, 4 p. m. Dr. Skinsnes has received a letter from Reverend Bert Nelson stating that he is well and that 'They have decided to keep me in here as an English teacher.' A middleman sent to the bandit headquarters by Dr. Skinsnes has returned to Sinyangchow and confirms the above but brought from the brigands a long list of articles now being demanded among them being 'telephone wires 360,000 feet, pianos, organs, medicines, printing presses, airplane thermometer, et cetera'. Dr. Skinsnes stated that 'perhaps the list is made so complicated because they really do not want to let Nelson go.'

I have had Nelson case up twice recently with General Ho Chen-chun with the same result heretofore, that is, promises to do everything possible to effect release but no effective steps taken.

None of the articles mentioned herein will be sent.

Repeated to the Legation [*Department?*]"

LOCKHART

⁵⁵ The U. S. S. *Pillsbury* was sent.

893.00/11806

*The American Consul General at Hankow (Lockhart) to the Chinese Chairman of the Hunan Provincial Government (General Ho Chien)*⁵⁶

HANKOW, June 16, 1931.

SIR: I have the honor to inform you that the motor vessel *Chi Ta*, of the Yangtze Rapid Steamship Company (American), en route from Hankow to Ichang, was fired on at Chenglinki on June 3, 1931, at 1.40 A. M. Several rifle shots were fired at the vessel before it came to anchor and four shots were fired while the vessel was anchoring. Later, a Chinese customs official boarded the vessel and informed the master that martial law was in effect at that point and that vessels were not allowed to pass Chenglinki between sunset and sunrise.

Neither this Consulate General nor the steamship company had been previously notified of the enforcement of martial law at that point. This oversight on the part of the Chinese authorities might well have resulted in serious consequences. A similar failure of the Chinese authorities to inform American authorities of the establishment of a search barrier a few miles above Ichang recently resulted in an unfortunate incident in which several Chinese soldiers were wounded by members of the American armed guard on board an American steamer, the soldiers having fired on the steamer and the armed guard, believing them to be communist-bandits, returned the fire. I therefore beg to request that you instruct the Chinese authorities concerned promptly to notify this office, by telegraph if necessary, of the establishment of search barriers or prohibited sailing hours at points along the Yangtze and Siang rivers in Hunan Province, so that American shipping companies may be duly informed and be in a position to have the masters of their vessels comply with such reasonable regulations as may be instituted.

The courtesy of an early reply, indicating the action taken by you, will be appreciated.

Accept [etc.]

F. P. LOCKHART

⁵⁶ Copy transmitted to the Minister in China by the Consul General in his despatch L. No. 1232, June 16; transmitted to the Department without covering despatch; received September 29.

393.1163 Am 3/116

*Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Apostolic Delegate to China (Archbishop Celso Costantini)*⁵⁷

[WASHINGTON,] June 23, 1931.

The Archbishop opened the conversation with a reference to the pleasant contacts which he has had with American Ministers to China, Mr. Schurman,⁵⁸ Mr. MacMurray⁵⁹ and Mr. Johnson. He said that he had friendly relations with a number of the Legations at Peiping but had always found it particularly satisfactory to talk matters over with the American Minister. He said that he was now again on his way out to China and would arrive there at the end of July.

The Archbishop said that there were now 102 Catholic mission stations in China, of which 10 are American. He said that missionaries have had unusual perplexities and troubles during the past few years. Among Catholic missionaries, some thirty have been killed during the past six years and among Protestant missionaries approximately an equal number. A good deal of mission property has been destroyed or appropriated by the Chinese to their own uses. He had heard recently that the Chinese Government has declared the treaties abolished and he inquired what assurances remained, if any, with regard to property rights. In reply to this inquiry, Mr. Hornbeck explained the nature of the action recently taken by the Chinese National Convention and the Chinese Government and gave a brief outline of the attempt which is being made in the negotiations on extraterritoriality to safeguard property rights.⁶⁰

The Archbishop next spoke of the problem of the personal safety of missionaries. He said that the Catholic Church looked upon its missionaries as soldiers and that the missionaries so regarded themselves. He said that it was their policy where a menace to personal safety arises, to evacuate women and the majority of the men that are stationed but always to leave one or a few missionaries to take risks with and look after the local congregation of converts. If a missionary were killed, they regretted it, but they considered that he had fallen in action, in line of duty; he had become a martyr and they were not inclined to make a disturbance about it.

Mr. Hornbeck said that he would like briefly to indicate the reasoning of responsible Government officials with regard to that problem, but that first he would like to mention a small matter related thereto. He said that he feared that some missionaries, especially American

⁵⁷ Present also were Father Burke, Father Murphy, and William F. Montavon, of the National Catholic Welfare Conference.

⁵⁸ Jacob Gould Schurman, 1921-25.

⁵⁹ John Van A. MacMurray, 1925-29.

⁶⁰ See pp. 716 ff.

missionaries, had a tendency to be indiscreet in public expressions of adversely critical opinion with regard sometimes to Chinese officialdom and sometimes to the Chinese in general. To illustrate, some missionaries sent telegrams over Chinese telegraph wires vigorously denouncing the very Chinese officials whom American consular officers would have to approach in the effort to induce official action for the protection of the missionaries in question. Inasmuch as these telegrams are very likely to be reported to Chinese officials, and as they are certain to be read by many Chinese along the line, it would be the better part of discretion and would be helpful if the authors could always have in mind the fact that expression of their personal feelings only makes more difficult the attainment of the objective which they have in mind. The Archbishop said that he appreciated that point of view, that he welcomed the suggestion, and that he would be able to convey it through various channels, mostly by word of mouth, with a note of caution.

Mr. Hornbeck then said that, with regard to the position of the missionary whose life, while he is at his post, is endangered, there must inevitably be a difference of viewpoint: the Church would see the problem from the point of view of the evangelical objective; the Government would see from the point of view of law and political and economic considerations (primarily). In any enterprise, the parties thereto take into consideration relative and comparative facts and factors of cost and profit or potential profit (or advantage). If a missionary is sent to a certain post and there undergoes hardships and danger and, when menaced, remains at his post, this doubtless has an effect on the thought of his constituents, both locally and at home. If he is killed, that too has its effect on their thought. Whether the martyrdom of a missionary tends to advance or to retard the cause for which he is working must depend to some extent on the circumstances of each case and the preconceptions of whatever person may be weighing that question. It may be assumed that from the point of view of the Church over a period of centuries, martyrdoms have been assumed to involve more of advantage than of disadvantage to the cause. But, from the point of view of agencies of government, there can be little doubt but that the Chinese Government would prefer that missionaries be not killed and that the foreign government of whom any particular missionary or any other person in China is a national, would prefer that their national be neither menaced nor killed in China. The death of a foreign national in China by violence at the hands of Chinese persons involves more often than not a good deal of difficulty both for that person's own government and for the Chinese Government. It does not make for better understanding between Chinese people and the people of foreign countries; it tends rather toward the contrary.

It has in recent years seemed to most foreign governments the better part of wisdom, in cases where their nationals are located in areas where a threat develops, to inform their nationals of the situation and ask their nationals to withdraw to places of safety. Foreign governments cannot send policemen or soldiers into the interior of China; and it is not at all times possible or convenient for the Chinese Government to send forces sufficient to ensure either order among and safety of their own people or the safety of foreigners. Looking upon the missionary in the sense in which the Archbishop has described him, as a soldier, the figure seems a fair one except perhaps in one particular: the soldier is sent to a particular place to fight against the military forces of a foreign people whom he encounters; whereas the missionary is sent to carry the message of good will and to work for the benefit of the people to whom and among whom he goes. As a soldier, it would seem that if the missionary has been warned to withdraw in the face of danger and if he elects not to withdraw he should be content to face the danger without subsequently calling upon the agency which had warned him for protection or rescue. In practice, even though we have warned an individual and our warning has been disregarded, it is our duty, and we endeavor to carry it out, to give such aid as may be possible. But, in many cases, the consequence of the determination of a missionary to remain at his post is embarrassment and trouble for his own government, for the Chinese Government, and for the Chinese people. This is particularly true if the missionary is killed. In any case, it frequently occasions a very considerable expenditure of time and money on the part of agencies other than the church: messages, telegrams, efforts to carry in ransom, relief expenditures, et cetera. In the case of a death, if a foreign government demands an indemnification, that means expense to the Chinese.

At that point, the Archbishop said that the Church no longer asks that indemnities be paid for destruction of life, but that it still does ask that payment be made in cases of destruction of property. Mr. Hornbeck said that he realized that such was the case, and that the American Government does not make it a practice to demand indemnities, but that some governments have even in recent years demanded them. The Archbishop said that this was true but that they applied the proceeds to philanthropic purposes. Mr. Hornbeck replied that this was on the theory of penalizing the wrongdoer but not capitalizing the offense to the profit of the injured party or his estate or his government; but that the effect, so far as the Chinese were concerned, was that if an indemnity was demanded and its payment by the Chinese Government was achieved, it was costly to the Chinese people. The Archbishop said that it was quite so.

Mr. Hornbeck then continued to the effect that where a foreign national, having been warned, withdrew, all this complication and

effort and possibly unpleasant consequence was avoided. Thus, governments look at the matter from the point of view of international relations, and, realizing that by no process could we make prevail in China the standards with regard to such matters which are regarded as "normal" in most Occidental countries, take the view that evacuation is the most desirable procedure.

The Archbishop said that he quite concurred in the exposition of the difference in the viewpoint between the Church and the State but, he said, there is an additional factor to be considered: the missionary feels a special sense of obligation to his constituents and he feels that he must give no sign of apprehensiveness or fear. With regard to particular cases, such as that at Kanchow, the tradition has been established by the French missionaries that the missionary must stay at his post. And as a rule the French missionaries do stay. At Kanchow the Catholic mission was founded by the French and just a few years ago was taken over by the American personnel. The Americans feel that they must keep up the tradition established by the French. Mr. Hornbeck said that this was an interesting point and that he well realized that even without that factor the missionary would be inclined to consider the point of honor that he remain at his post.

The Archbishop said that in the locating of new missions, the effort is being made to avoid the less strategically located points in favor of the more strategically located points, from point of view both of possible effectiveness of missionary work and of safety and related considerations.

At intervals in the course of the above recorded conversation, Father Burke and Father Murphy and Mr. Montavon had supplemented statements which were being made either by the Archbishop or by Mr. Hornbeck. There appeared to be at the conclusion a consensus of view that the Church and the State understood and sympathized with each other's responsibilities and opinions and objectives, and the Archbishop expressly stated that the thing most to be desired in all these matters was that they be approached and be dealt with by all parties concerned in the spirit of intelligent and sympathetic cooperation. To this, there was general assent. The Archbishop went right on to say that what was most needed now with regard to China was that everybody—Church, State, individuals, everybody—concentrate on the question of helping the Chinese to find themselves and make progress in the course of revolutionary evolution in which they are involved. He said that just as he was leaving China there was much talk of a great loan to be made by the American Government. He said that he believed that the United States had the attitude of helpfulness toward China. Mr. Hornbeck interrupted to say that both the American Government and the American people, having no selfish political objectives in reference to China, were in fact most eager to help China but were frankly at a

loss as to ways and means; from time to time many suggestions are made, but each has to be considered on its merits and more often than not scrutiny leads to the conclusion that a particular line of action, if pursued, would be more of a hindrance than a help. The Archbishop said that he well realized that. Mr. Hornbeck said that we were on the lookout for opportunities and practical plans. Father Burke said that he had always found the Department of State responsive to every suggestion and request that he had made. Mr. Hornbeck said that he was sure that the Archbishop and the American Minister to China would find themselves able at all times to discuss problems frankly and with mutual confidence and in the fullest spirit of cooperation. The Archbishop said that this was correct and that he found that he could discuss any problem on that basis with Mr. Johnson.

With expressions of reciprocal felicitation, et cetera, the conversation there ended.

S[TANLEY] K. H[ORNBECK]

893.00/11545

*The American Minister in China (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang)*⁶¹

No. 311

PEIPING, June 23, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's formal note of May 1, 1931, wherein is quoted a reply received by Your Excellency's Ministry from the Ichang Area Garrison Headquarters to the following effect:

"When the S. S. *Iping* was about to pass through the line of defense at Sanyutung, a point above Nanchingkuan, sentries waved red flags and loudly told the vessel to stop. The river at that place is very narrow, and it was not impossible for those on board to hear the shouts and to see the flags. The S. S. *Iping*, instead of stopping, opened fire with machine-gun on the shore. Twenty-five officers and soldiers were wounded, four of whom received serious injuries and may not live."

In reply, I desire to invite your attention to the statements made in my formal note of April 18th, and to inform you that the *Iping*, while proceeding from Chungking, was suddenly and without warning heavily fired upon at a point about five miles above Ichang, such firing having started after the steamer had stopped its engines in response to signals from the river bank and was turning for upstream anchorage in the strong current. However, the firing from the shore increased in intensity, and in order to extricate the steamer

⁶¹ Copy transmitted to the Department by the Minister in China in his despatch No. 1044, June 23; received July 20.

from a difficult position and defend and protect the lives of those on board it became necessary to open fire in self-defense and steam at full speed from the vicinity. In confirmation of this statement, I desire to point out that General Liu Hsiang, Commander of the 21st Army of the Nationalist Revolutionary Army of China, in a formal communication addressed to the American Consul General at Hankow on April 15th, quoted a telegram received by General Liu from General Ko Hsun, Garrison Commander at Ichang, under date of April 8th, which stated among other things:

"On the 8th the S. S. *Iping* of the Yangtze Rapid Steamship Company sailed down river at full speed and shot with machine guns. My troops for the sake of self-protection, returned the fire. The steamship stopped sailing to oppose for over ten minutes before it went down river."

This official statement of the Ichang Garrison Commander thus confirms my statement that the steamer sought to stop in its course down river, which effort, however, had to be abandoned when the troops on the bank, disregarding the stopping of the engines and turning of the steamer, endangered the safety of the vessel and the lives of those on board by a continuous, heavy, fire.

As Your Excellency was informed in my note of April 18th, both the Commander-in-Chief of the United States Asiatic Fleet and I regret this most unfortunate incident, which appears to have been due primarily to the failure of the Chinese authorities to give notice of the fact that Government troops had been stationed at Sanyutung to prevent groups of brigands from surreptitiously entering Ichang on steamers arriving from up-river points. It is earnestly requested that, in future, advance notice be given of the institution of such procedure in respect to steamers navigating the Yangtze. In this way, unfortunate and most regrettable misunderstandings by both parties may be avoided.

I avail myself [etc.]

For the Minister :
C. VAN H. ENGERT
First Secretary of Legation

893.801 Search/44 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State

PEIPING, July 8, 1931—4 p. m.
[Received July 8—9:50 a. m.]

397. In a note dated June 2, translation of which has been forwarded to the Department by mail,⁶² the Minister for Foreign Affairs notifies

⁶² Not printed.

me that the Chinese Government "has now formally fixed 12 nautical miles as a limit for the customs preventive service" referred to in "instructions for the guidance of officers in charge of revenue launches or cruisers when stopping and searching vessels, foreign and Chinese, in Chinese waters", transmitted with Foreign Office note of October 31, 1930, transmitted to Department with despatch No. 607 of November 20, 1930.⁶³ I assume Department will wish me to notify Chinese Foreign Office that the American Government cannot accept a unilateral claim of sovereignty beyond customary 3-mile limit in view of the fact that in our smuggling prevention treaties⁶⁴ we have upheld 3-mile limit.

JOHNSON

893.801 Search/45 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, July 22, 1931—1 p. m.

238. Your 397, July 8, 4 p. m. While the United States adheres to the generally recognized rule of international law that the territorial jurisdiction of a nation over its marginal sea does not extend beyond 1 league from the low water mark on its coast, the laws of the United States confer jurisdiction, for certain purposes, on certain designated officials, with respect to vessels outside the territorial jurisdiction of the United States. See Section 2760 of the Revised Statutes⁶⁵ and Sections 581 and 586 of the Tariff Act of 1930.⁶⁶

The Department is of the opinion that the reservations already made by the Legation are adequate for the present and accordingly no protest need be made to the declaration of the Chinese Government quoted in your telegram.

CASTLE

393.1163/520

*The Minister in China (Johnson) to the Consul General at Nanking (Peck)*⁶⁷

PEIPING, July 31, 1931.

SIR: You are requested to arrange for an interview with the Minister for Foreign Affairs, or the official acting for him, and to hand to

⁶³ Despatch No. 607 not printed; for Foreign Office note of October 31, 1930, see *Foreign Relations*, 1930, vol. II, p. 209.

⁶⁴ For texts of conventions for the prevention of liquor smuggling into the United States, see *ibid.*, 1924, vol. I, pp. 157 ff.

⁶⁵ Rev. Stat. sec. 2760, p. 535.

⁶⁶ Approved June 17, 1930; 46 Stat. 500, 747, 749.

⁶⁷ Copy transmitted to the Department by the Minister in his despatch No. 1106, July 31; received August 29.

him the enclosed *Aide-Mémoire*, bringing orally to his attention the serious nature of the complaint and reserving all rights, on behalf of the missions concerned, to present claims for damages suffered at the hands of government troops.

Very truly yours,

For the Minister:
C. VAN H. ENGERT
First Secretary of Legation

[Enclosure]

The American Legation to the Chinese Ministry for Foreign Affairs

AIDE-MÉMOIRE

The American Legation refers to the Legation's notes No. 249, of February 5, No. 282, of April 17, No. 283, of April 18, 1931,⁶⁸ and to other communications in the past few years, bringing to the attention of the Chinese Government the repeated occupation and violation of American mission property in various parts of China by armed forces of the National Government itself or of the several provinces and their subdivisions. Upon occasion the Legation has also had to protest against the usurpation of American mission property by Government school organizations and by party organs of the Kuomintang.

The question seems generally to have been perfunctorily referred to local officials, where the matter appears to rest without any efforts being made to remedy the situation. Usually, as indicated in the Legation's note No. 283, of April 18, 1931, the troops occupying mission property remain until ordered to a different locality, and only too frequently the property is promptly reentered and reoccupied by different organizations.

From time to time the Legation has procured through the Ministry of Foreign Affairs proclamations issued by the Minister of Military Administration, forbidding under pain of severe punishment all troops to occupy mission properties, schools, and hospitals. In the majority of cases, the Mission properties are placarded, in addition to these proclamations of the Minister of Military Administration, with similar notifications issued by the provincial and military authorities. These proclamations are almost uniformly ignored by the troops. In many cases military units even deliberately occupy mission property bearing at the gate a proclamation issued by the divisional commander of the occupying unit. In another instance recently reported, the property of the American Church Mission at Yochow, Hunan, was occupied by the Wireless Corps of the 10th Army (48th Division) despite the fact that there was posted on the property a proclamation

⁶⁸ None printed.

issued in the name of Commander-in-Chief Chiang Kai-shek. When this was brought to the attention of the Wireless Corps they replied that since Chiang Kai-shek was not in direct command of them they could not obey his orders.

Aside from the inconvenience suffered by missionary organizations whose property is occupied, however briefly, by Chinese troops, resulting in a hampering and interruption of their work, it should be clearly understood that the financial loss and damage sustained amounts to a considerable figure in each instance, and the sum representing the total loss and damages incurred by American missionary organizations during the past three years through theft, looting, and pilferage, and wanton damage and destruction on the part of the armed forces of the Republic of China, is surprisingly large. In addition to tearing out wooden fixtures, including even door and window frames, and fouling and blocking up wells, Chinese troops carry away in daylight, under the eyes of the missionaries, benches, tables, and chairs and other movable property. A list is appended hereto⁹⁹ setting forth the conditions attending the occupation of certain individual pieces of mission property.

The Government of China has repeatedly announced that it desires and is able to accord protection to foreign property in the interior. The Legation finds it difficult to reconcile the continued existence of the conditions briefly described above with this statement, especially since the depredations reported have without exception been committed by the very agents entrusted with such protection.

The Legation therefore requests of the Ministry of Foreign Affairs a statement in some detail setting forth the steps which have been or are being taken to accord protection to American property in at least those regions of the interior of China which are obviously under the effective control of the National Government.

PEIPING, July 31, 1931.

393.1163/526

*The Consul General at Nanking (Peck) to the Minister in China
(Johnson)*⁷⁰

No. L-71

NANKING, August 13, 1931.

SIR: I have the honor to acknowledge the receipt of the Legation's instruction of July 31, 1931, enclosing an *Aide-Mémoire* of the same date, regarding the occupation of American-owned property by Chinese troops. I at once, i. e. on August 8, 1931, asked the Director

⁹⁹ Not printed.

⁷⁰ Copy transmitted to the Department by the Minister without covering despatch; received September 28.

of the Bureau of Protocol to arrange for an interview for me with the Ministry for Foreign Affairs, for the purpose of delivering this document to him. At that time the Minister and the two Vice Ministers were absent from the Capital.

Dr. Wang, Minister for Foreign Affairs, received me at 12 noon, on August 12, 1931. I handed to him the envelope containing the *Aide-Mémoire*, in English and Chinese translation, and explained that I had been instructed by the American Minister to invite the serious attention of the Minister for Foreign Affairs to the gravity of the situation depicted by the communication. Dr. Wang asked me where the incidents complained of occurred, and I replied that they had occurred in many different parts of the country.

Dr. Wang assured me that he would give his attention to the *Aide-Mémoire*.

I stated formally to the Minister for Foreign Affairs that I had been instructed by the American Minister to inform him that in view of all the circumstances, the American Government was obliged to reserve, on behalf of the owners of the property affected, the right to claim damages from the Chinese Government on account of the losses inflicted by the Government troops.

Respectfully yours,

WILLYS R. PECK

893.00/11586 : Telegram

The Consul General at Hankow (Adams) to the Acting Secretary of State

HANKOW, August 31, 1931—4 p. m.
[Received September 1—6 a. m.⁷¹]

91. 1. A few days ago the motor vessel *Meiyung* of the Standard Oil Company of New York was heavily fired upon by Communists a short distance above Hanchwan on the Han River and compelled to return to Hankow with her cargo. Communist bands have been extremely active during August on all sides of Hankow. They are apparently taking advantage of high water, which hampers troop movements, to press their activities. Lukiakow, Tsaoshih, Fenshuitsuei and Chinghuangkang, all in central Hupeh, have been captured by Communists within the past few days. Father Sands (British) at Chiwutai and Father O'Rourke (British) at Tsaoshih were captured by Communists on August 16 and 20 respectively.

[2.] The National Government has ordered 30,000 gallons of aviation gas to be delivered at Changsha not later than September 6. If

⁷¹ Telegram in two sections.

this and Chiang Kai-shek's visit to Hankow indicate preparations for offensive or defensive measures against Canton, military forces at Hankow may be depleted. In such case the situation here will require careful watching.

3. I am discussing with Rear Admiral Williams the possible desirability of increasing American naval forces at Hankow for the protection of Americans.

Legation informed.

ADAMS

333.1111 Nelson, Bert N./130 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

WASHINGTON, October 17, 1931—11 a. m.

94. For the Minister: Department suggests that you at your discretion upon some appropriate occasion may find it convenient to mention to the Ministry of Foreign Affairs the case of the long continued captivity of Bert N. Nelson.

STIMSON

333.1111 Nelson, Bert N./131 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 25, 1931—9 p. m.
[Received November 25—2:36 p. m.⁷²]

1005. See Legation's despatch No. 1160, September 3rd,⁷³ regarding Nelson.

1. Hankow's despatch No. 40, November 18th,⁷³ indicates that bandits are convinced that Nelson's brother has much influence with the Chinese Government; that Nelson himself is a very important person with great magnitude; that goods and money which have been furnished have been provided by the Chinese Government which will be responsible for meeting their further demands and that Nelson or his mission could readily raise an additional \$50,000 if necessary.

2. In the latest attempt to procure Nelson's release Dr. Skinsnes sent, in compliance with bandits' demands, 900 bolts of cloth and 100 miles of telephone wire. Upon receipt the bandits again declined to release Nelson. They desired insulated telephone wire and larger pieces of cloth.

⁷² Telegram in four sections.

⁷³ Not printed.

3. The bandits through their so-called "Chief of the Commission of Foreign Affairs of the Soviet Government for the Hupeh-Honan-Anhwei district" have now addressed an open letter to Adams stating that Nelson is a very valuable captive whom they wish to utilize for a solution of some difficult problems of supplies faced by the Communists and that since laborers and peasants in Honan and elsewhere in China have been killed and have suffered great losses the quantity of supplies received by the bandits for Nelson's release is insignificant in comparison with Communists' losses in other parts of China. Bandit chief proposes to release Nelson if three [*five?*] political offenders are released in exchange for Nelson and telegraphed [*threatened?*] failing this "we can only proceed by the extreme measure of revenge [*requiting*] upon the person of this missionary Bert Nelson measure for measure the treatment accorded to our revolutionary fighters." Addressee is requested to send a representative to the bandits to discuss terms.

4. At the specific suggestion of Dr. Skinsnes, Adams has drafted a proposed reply to the bandit chief with the aim of minimizing in the bandits' eyes the importance attached to Nelson, setting forth the fact that Nelson had been warned by the American authorities before his capture that residence in Honan was unsafe; and the Chinese Government had also prior to that date declined to issue travel passes for foreigners to travel in Honan; that Nelson despite these warnings persisted in residing in Honan at his own risk in order to carry on missionary work and that while the consular office has made every effort within its power to obtain his release, it would have done as much in the case of any other American citizen. Adams states that the American Government has never even considered paying a ransom either for the release of Nelson or of any other American citizen held captive in China; that Nelson's friends have contributed at considerable sacrifice to meet the ransom demanded by the bandit organizations and that the Consulate General without obtaining the approval of the American Government undertook to procure passes to enable the goods to be sent. Adams intimates that in view of the evident bad faith of the bandits in connection with the negotiations he does not intend to request any further passes to cover goods. He points out that anti-Communist activities of the Chinese Government are solely the latter's concern and that American authorities have nothing to do with them. The draft ends: "with regard to the question of the release by the Chinese Government of political offenders, I may say that this likewise is a Chinese domestic affair in which the American authorities are not in a position to attempt any action. It is the policy of the American Government to refrain from interference in the in-

ternal affairs of China. For the above reasons I must decline to consent to the proposals which you make."

5. Adams requests the Legation's authorization to send this letter. The Minister desires Department's instructions before replying. I feel that a lengthy letter from the Consulate General at Hankow to the bandit chief such as the one proposed is unwise and may be dangerous. But if in view of the unusual circumstances the Department should approve the correspondence in principle the letter should be very brief and the Department may prefer to suggest its tenor.

For the Minister :

ENGERT

393.1111 Nelson, Bert N./132 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, November 28, 1931—12 p. m.

442. Your No. 1005, November 25, 9 p. m. In a case of this sort the Department believes that the Legation and the Consul General at Hankow are in a better position than is the Department to decide with regard to certain practical aspects of the situation. However, the Department offers for consideration and possible assistance the following suggestions:

(1) The Department does not feel that the Consul General should address any communication to the bandit chief. However, a letter somewhat briefer than that suggested by the Consul General and along the same line might be addressed to Dr. Skinsnes who might in his discretion see that the letter or its substance is brought to the attention of the bandit chief. At the same time the Department cautions against any action that may lead the bandits to consider that the life and safety of Nelson are not of concern to the American Government.

(2) The Department believes that the Minister should at the earliest opportunity present in person to the Acting Minister for Foreign Affairs a formal note quoting the bandit chief's open letter and telegram and urging strongly that immediate and effective steps be taken to effect the release of Nelson. At the same time the Minister might orally call attention to the fact that a means of obtaining the immediate release of Nelson has been proposed by his captors, failing which they threaten extreme measures of revenge upon the person of Nelson.

STIMSON

893.801 Search/58 : Telegram

The Consul General at Hankow (Adams) to the Secretary of State

HANKOW, December 12, 1931—1 p. m.

[Received 4:39 p. m.]

125. 1. Yesterday morning about 30 armed and 200 unarmed soldiers belonging to the Chinese salt revenue guard boarded the American motor vessel *Ifung* lying alongside a hulk at Hankow. The American steamship *Iping* was at the same moment hauling herself alongside the *Ifung*. The *Iping*, downbound from Ichang, had on board an armed naval guard from the U. S. S. *Palos* and also approximately 18 tons of silver reported to belong to the Young Brothers Banking Corporation.

2. The American armed guard requested the Chinese soldiers to leave the *Ifung*. The Chinese soldiers refused to do so. The armed guard thereupon exploded tear gas bombs among the Chinese soldiers who hurriedly left the *Ifung*. So far as could be ascertained by the American naval authorities no one was injured during the incident.

3. Shortly thereafter the incident was discussed by the commanding officer of the *Guam* with a Chinese officer who came aboard and who claimed to be the commander of the Fourth Independent Battalion of Government Revenue Guards.

4. I received my first information regarding the incident yesterday afternoon. I have thus far received no complaint from the Chinese authorities with regard to the incident.

Legation and Nanking informed.

ADAMS

393.11/1385 : Telegram

The Consul General at Nanking (Peck) to the Secretary of State

NANKING, December 18, 1931—3 p. m.

[Received December 18—9:25 a. m.]

128. In a confidential circular letter mailed December 17,⁷⁵ to American citizens in Kiangsu north of the Yangtze River and in Anhwei this Consulate General referred to the death of Reverend J. W. Vinson at the hands of bandits and warned American citizens in those districts that although this Consulate General had made insistent requests of the appropriate authorities that measures be taken for the security of American life and property, concrete results from the measures which the Chinese authorities have promised to take against them are discouraging and could hardly be expected for

⁷⁵ Not printed; circular was dated December 16.

some time. The American citizens to whom the circular was addressed were advised to retire temporarily from the interior with the exception of men of not more than middle age and American citizens residing in localities where in their own opinion exceptional reasons existed for confidence that full protection could and would be afforded them.

Copies of the circular letter are being transmittted by mail to the Department and the Legation.

PECK

893.801 Search/60 : Telegram

The Consul General at Hankow (Adams) to the Secretary of State

HANKOW, December 23, 1931—4 p. m.

[Received December 23—7:12 a. m.]

127. My 125, December 12, 1 p. m. No representations have been made by the Chinese authorities and I am inclined to believe that none will be made since the troops who were put off the *Ifung* have left this area.

Legation and Nanking informed.

ADAMS

393.1111 Halverstadt, Harriet/1 : Telegram

The Vice Consul at Foochow (Burke) to the Secretary of State

FOOCHOW, December 24, 1931—4 p. m.

[Received December 24—9:05 a. m.]

Methodist Mission reports that Miss Harriet J. Halverstadt, an American missionary, was captured about 20 miles south of Foochow by men dressed in marine uniform today at 1 p. m. I am urging the Provincial Government to take prompt action to effect her release.

BURKE

393.1111 Halverstadt, Harriet/3 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 27, 1931—11 a. m.

[Received December 27—3:50 a. m.]

1133. Legation's 1128, December 26, 11 a. m.⁷⁸

1. Following from American Consul General at Nanking:

"December 26, 4 p. m. I have addressed note to Foreign Office as directed and expressing your expectation that the guilty persons will

⁷⁸ Not printed.

be sought out, tried and punished in accordance with law. Foochow informed and requested to supply additional information."

2. Following from Foochow:

"December 26, 7 p. m. My December 24, 4 p. m. to the Legation. Halverstadt not released. Her whereabouts uncertain. Provincial Government only making half-hearted attempt to obtain her release. Believed to be captured by bandits and prospects of release are uncertain."

JOHNSON

393.1111 Halverstadt, Harriet/14: Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, December 30, 1931—5 p. m.

473. Your 1136, December 28, 11 a. m.⁷⁷ and previous in regard to capture of Miss Halverstadt.

1. Department notes from Foochow's telegram of December 29, 1 p. m.,⁷⁷ that Miss Halverstadt has not been released and that the Methodist Mission believes that she is held at a place within an easy 2 hours' walk from launch connections. Department desires that you press this case with the Ministry of Foreign Affairs, stating, as under instruction from the Department, that the American Government is deeply concerned.

2. Department is of the opinion that it would be well for you to direct Peck⁷⁸ to call on the Minister for Foreign Affairs and inform him orally that the capture of Miss Halverstadt, following so closely upon the murder of Mr. Vinson, causes the American Government to entertain great anxiety with regard to the safety of American citizens in China, and that Peck might also address the Minister for Foreign Affairs orally but on behalf of the Department along the lines outlined in the Department's telegram No. 127, November 29, 2 p. m., to Nanking,⁷⁹ paragraph 2.

CARR

393.1111 Halverstadt, Harriet/8: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, December 31, 1931—noon.

[Received December 31—2:30 a. m.]

1160. Legation 1133, December 27, 11 a. m., and Foochow's December 29, 1 p. m.⁷⁹ Following from American Consul General at Nanking:

⁷⁷ Not printed.

⁷⁸ Willys R. Peck, Counselor of Legation and Consul General at Nanking.

⁷⁹ Latter not printed.

"December 30, 4 p. m. I have orally informed the Foreign Office today of the above telegram and have strongly represented the gravity of the situation. The Foreign Office has received from Foochow a detailed report of measures taken for the release of Miss Halverstadt which will be copied to me. I have been promised that renewed instructions of an urgent character will be sent by the National Government to the Fukien authorities."⁸⁰

JOHNSON

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE¹

G03.11246 Hoggard Sigler/2

The Minister in China (Johnson) to the Secretary of State

No. 757

PEIPING, January 21, 1931.

[Received February 25.]

SIR: I have the honor to refer to the Legation's despatch No. 644, of December 3, 1930,² regarding the cases of the Nichols Superyarn and Carpets, Federal, Incorporated, U. S. A., and Messrs. Hoggard-Sigler, both of which were compelled to pay a further duty at Shanghai after payment of all regular dues at Tientsin, the original port of shipment.

The Legation has now received a communication dated December 29, 1930, from the Ministry of Foreign Affairs, in reply to its representations requesting a refund of the dues unlawfully collected at Shanghai. A copy in translation of the Ministry's note is enclosed² for the information of the Department.

Inasmuch as further correspondence with the Ministry of Foreign Affairs regarding these cases would appear to be futile, it is requested that the Legation be instructed as to what further action, if any, the Department considers might be taken. So far as the Legation is aware, the action of the National Government is without legal basis and in contravention of treaty provisions regarding the collection of customs dues, and it is believed that the National Government is legally liable to refund the dues collected a second time at the port of Shanghai. It will be noted that the Ministry of Finance, to whom this matter was referred by the Ministry of Foreign Affairs, makes no attempt to either justify or regularize the double collection of dues, but contents itself with stating that this action was taken in con-

⁸⁰ Miss Halverstadt's release was effected on January 3, 1932 (393.1111 Halverstadt, Harriet/25).

¹ Continued from *Foreign Relations*, 1930, vol. II, pp. 274-294.

² Not printed.

formity with the orders of the National Government and that it applied equally to American, Chinese and other foreign merchants.

Respectfully yours,

NELSON TRUSLER JOHNSON

393.1152/15

The Secretary of State to the Minister in China (Johnson)

No. 380

WASHINGTON, January 26, 1931.

SIR: The Department has received the Legation's despatch No. 403 of August 15, 1930,³ with regard to reported attempts of the Chinese military authorities in northern Honan to extort forced loans from Chinese agents of an American company engaged in the sale of kerosene.

It would appear from the enclosures to the Legation's despatch that loans of the sort indicated were demanded only from Chinese agents engaged in selling kerosene; that the alleged security for the loan consisted of consumption tax stamps; and that the stamps thus given as security could not be used on untaxed merchandise then held in the warehouses of the Chinese agents. Moreover, the correspondence between the Legation and the Consulate General at Tientsin would indicate that both of these offices recognized the strong probability that forced loans of the sort under discussion were imposed in a manner discriminatory against agents of foreign concerns.

Although the Legation has taken the stand that no real basis exists for the formulation of a protest, the Department believes that it should be borne in mind that forced levies of this sort against the Chinese agents of American companies, whether or not imposed in a discriminatory manner, would, if they were to be indefinitely continued, undoubtedly prevent the carrying on of business relations entered into between the American company and its agents in the interior. This would appear to constitute a new limitation and impediment, freedom from which was guaranteed to citizens of the United States engaged in the purchase or sale of goods of import or export by Article XV of the treaty between the United States and China of 1844.⁴ Other treaty provisions which appear pertinent to the case under discussion are those contained in Article VIII of the Sino-American Treaty of 1844; Article XVII of the Sino-American Treaty of 1858;⁵ Article XIII of the Sino-British Treaty of 1858;⁶ and Article V of the Sino-Netherland Treaty of 1863.⁷

³ Not printed.

⁴ Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 4, p. 559.

⁵ *Ibid.*, vol. 7, p. 793.

⁶ *British and Foreign State Papers*, vol. XLVIII, p. 47.

⁷ *Ibid.*, vol. LX, p. 766.

It does not appear that any further action is necessary either on the part of the Legation or the Consulate General at Tientsin in the particular case under reference, but, in future cases of a similar nature, it is suggested that the Department's observations as set forth above be considered.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

893.1028/267

The Secretary of State to the Minister in China (Johnson)

No. 388

WASHINGTON, January 29, 1931.

SIR: The Department has received your despatch No. 530 of October 21, 1930, and the enclosures thereto,⁸ on the subject of licenses required of American plumbing contractors by the Chinese Municipality at Shanghai.

It would appear from the amount of the license fee that the Chinese Municipality, in addition to any desire to ensure that only qualified contractors engage in plumbing work, has in mind the raising of funds for certain purposes. The Department therefore considers that there should be applied to this requirement of the Municipality the principles set forth in the Department's instruction No. 546 of June 2, 1927,⁹ in regard to municipal taxes. In that instruction the Department stated that "it would be desirable to instruct American citizens, when demands are made by the Chinese authorities for the payment of municipal taxes, that the American Government advises them to pay, as a voluntary contribution, the rates levied on Chinese and other foreign citizens, when such rates are, in the opinion of the Legation, reasonable and when appropriate municipal services are rendered in return." The Department stated, further, that it expected "to be given the opportunity to express an opinion, if it desires to do so, regarding municipal regulations designed to be applicable to American citizens, in order that it may ascertain whether the rights properly enjoyed by such citizens are infringed upon."

In the present instance, the Department notes that the Legation is of the opinion that the fees charged in connection with the licensing of plumbing firms are excessive. The Legation would therefore be justified in directing that the Consul General at Shanghai call this point to the attention of the Chinese authorities, with a statement that the provisions of existing treaties between the United States and China permit American citizens in China to carry on trade, industries and manufactures, or pursue any lawful avocation, and that the imposition

⁸ Not printed.

⁹ *Foreign Relations*, 1927, vol. II, p. 390.

by the Chinese authorities of undue and excessive restrictions on legitimate American activities would in effect tend to nullify the treaty provisions and to render impossible friendly and legitimate commercial relations between the citizens of the two countries. It might be stated also that the American Government is prepared to advise American citizens to pay, as voluntary contributions, municipal rates levied without discrimination on Chinese and foreign citizens in Chinese administered areas when the rates are, in the opinion of the American authorities, reasonable and when appropriate municipal services are rendered in return. It should be made clear that no penalty may be imposed on American citizens for failure to make such contributions. Request might be made for a copy of the complete text of the regulations and for information with regard to the uses to which the rates apply.

While the foregoing expresses the Department's general attitude on the specific question of the fees prescribed by the Chinese Municipality at Shanghai in connection with plumbing contractors, the Department does not believe that representations made by the American authorities alone would be likely to be effective. The Legation should, therefore, before taking any further action in the matter, endeavor to ascertain the attitude of the other foreign governments principally interested. In case there should be unanimity of view that some action along the lines of this instruction should be taken, the Legation may, in its discretion, adopt that course in conjunction with the representatives of the other interested Powers.

It is observed that the question of the Chinese authorities levying fees on American plumbing contractors has a bearing upon the broad question of the status of extra-Settlement roads at Shanghai and matters related thereto. In this connection reference is made to the Minister's statements, communicated to the Department in the Legation's telegram No. 2 of January 1, 1 p. m., [1931]¹⁰ that both the Chinese and the foreign authorities have been awaiting the issuance of Judge Feetham's¹¹ report on the International Settlement and the extra-Settlement roads at Shanghai, that it is expected that the report will soon be issued¹² and that it will furnish a basis for the settlement of these questions. In view of these statements, the Department questions the advisability of proceeding at this time with a discussion with the Chinese authorities of one phase of a general problem and

¹⁰ *Foreign Relations*, 1930, vol. II, p. 353.

¹¹ Richard Feetham, Judge of the Supreme Court of the Union of South Africa, engaged to report on the future policy for the International Settlement at Shanghai.

¹² *Report of the Hon. Richard Feetham, C. M. G., to the Shanghai Municipal Council*, pts. I-VII (Shanghai, 1931-32).

suggests for your consideration that it might be well to await the publication of Judge Feetham's report and then endeavor to work out, in conjunction with the representatives of the other interested Powers, a basis for a settlement with the Chinese authorities of the general question of extra-Settlement roads and related problems.

Very truly yours,

For the Secretary of State:

W. R. CASTLE, JR.

893.512/1107

*The American Minister in China (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang)*¹³

No. 244

PEIPING, February 4, 1931.

EXCELLENCY: I have the honor to inform Your Excellency that the American Consul General at Canton reports that a military surtax is being collected at Hsiakwan, Wuchow, on lubricating oils, wax, candles and certain products other than kerosene and gasoline imported into the province of Kwangsi by the Standard Oil Company of New York.

On December 30, 1930, the American Consul General addressed an official communication to the Mayor of Wuchow¹⁴ and requested definite information regarding the legal authority under which the Hsiakwan Tax Bureau had been established and empowered to collect this military surtax; the kinds of goods subject to the tax; the rate of the tax and the procedure prescribed in passing the goods through the Tax Bureau. The Consul General has received no reply to his communication, but the tax continues to be collected. A copy of a receipt issued to the Standard Oil Company covering payment on one particular shipment is enclosed for Your Excellency's information.¹⁴

Inasmuch as the tax appears to be an irregular levy and imposed in contravention of the decision of the National Government to abolish likin and similar miscellaneous taxes as from January 1, 1931, I have the honor to request that Your Excellency take appropriate action to cause the discontinuance of this tax.

I avail myself [etc.]

NELSON TRUSLER JOHNSON

¹³ Copy transmitted to the Department by the Minister in his despatch No. 797, February 4; received March 12.

¹⁴ Not printed.

893.5034 Business Tax/2: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, February 16, 1931—7 p. m.
[Received February 16—10:10 a. m.]

71. 1. Following from American Consul General at Hankow:

"February 14, 3 p. m. The Consulate General has received from the Chairman of the Hupeh Provincial Government the provisional regulations governing the imposition of a business tax in Hupeh. Regulations provide *inter alia* for taxes on amount of capital or sales, inspection of account books, fines for refusal to pay taxes and other infractions of regulations, closure of business and arrest of proprietor at refusal to pay taxes or allow inspection of books, registration of firms with Bureau of Finance.

This office feels that inspection of books of American firms may well be refused in the light of portions of Legation's circular 375 of October 3, 1929; and 69 October 30, 1930;¹⁷ and realizes that other features of regulations are objectionable but the physical ability of Chinese seriously to hamper or even possibly to close American firms failing to comply with the regulations is a possible eventuality. The imposition of fines on American companies has already been accomplished by the Chinese authorities, as reported by my despatch 1027 of August 12, 1930.¹⁸ The Chinese at the time averred their right to impose and collect administrative fines as opposed to judicial fines.

The Consulate General respectfully requests the Legation's [instructions?] concerning the advice which it should give American firms vis-à-vis those parts of the regulations mentioned in this telegram.

Complete copies of the regulations will be forwarded to the Legation by mail. This office acknowledged to the Chairman the receipt of the regulations which will take effect March 1st."

Hankow's despatch No. 1027, August 12, 1930, referred to above, was transmitted to the Department with Legation's despatch No. 417, August 23.¹⁸

[2.] Following reply transmitted to Hankow by the Legation:

"February 16, 6 p. m. Your February 14, 3 p. m. Provisional regulations for business tax appear clearly in violation of treaty rights of American citizens. Legation, however, is in agreement with your views concerning the practical aspect of the matter and has referred it to the Department for its instructions.

You should keep American firms fully informed as to the Chinese proposals and promptly report to the Legation any attempts of Chinese authorities to enforce measures against American firms."

3. Japanese Legation states that about 2 weeks ago it instructed Japanese consular authorities to decline to notify Japanese merchants

¹⁷ Neither printed.

¹⁸ Not printed.

in Hunan of Chinese proposal to inaugurate business tax in that province and that the Legation will undoubtedly take the same attitude in respect to Hupeh regulations. Legation is endeavoring to ascertain attitude of the other Legations and will report further.

4. The Department's instructions are requested.

JOHNSON

893.5034 Business Tax/2 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, February 20, 1931—5 p. m.

62. Your 71, February 16, 7 p. m. Department approves your February 16, 6 p. m. to Hankow.

Authorize Hankow to inform the Chairman of the Hupeh Provincial Government that the regulations cannot be considered applicable to American firms.

Report developments fully by mail.

STIMSON

893.512/1113

*The Consul General at Canton (Ballantine) to the Minister in China (Johnson)*¹⁹

No. 26

CANTON, February 23, 1931.

SIR: Referring to my despatch No. 16 of January 23, 1931,²⁰ on the subject, "Apparently Irregular Taxes Imposed on Foreign Goods at Wuchow", and to the Legation's instruction of February 4, 1931,²⁰ enclosing a copy of its note No. 244 to the Ministry of Foreign Affairs,²¹ I have the honor to state that a communication has now been received from the Mayor of Wuchow to the effect that instructions have been issued by the 8th Route Army Headquarters at Wuchow directing that the assessment of the Hsiakwan tax be discontinued. A copy of the note from the Mayor of Wuchow dated February 19, 1931, together with an English translation, is enclosed.²⁰

The Standard Oil Company has been informed of the contents of the communication from the Mayor of Wuchow.

I have [etc.]

J. W. BALLANTINE

¹⁹ Copy transmitted to the Department by the Minister in his despatch No. 851, March 9; received April 7.

²⁰ Not printed.

²¹ *Ante*, p. 985.

893.512/1101 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, February 24, 1931—4 p. m.
[Received February 24—2:40 p. m.]

83. Shanghai's despatch to the Legation 6639, September 26, 1930.²³

1. Senior Consul at Shanghai has submitted for the approval of the diplomatic body a tentative agreement between the consular body and the Consolidated Tax Administration of the Ministry of Finance for the application of the rolled tobacco tax regulations in the International Settlement. The agreement provides:

- (a) Regulations may be applied to the Chinese residents only;
- (b) Only the Shanghai municipal police shall be used for the enforcement of the regulations;

(c) Shanghai Municipal Council will undertake public prosecution of Chinese offenders against the regulations on condition that 30 days' notice of intention to prosecute be given through the medium of Chinese press, that no action shall be retroactive and that these prosecutions be in the control and discretion of the municipal advocate.

2. If diplomatic body approves, the agreement will be made effective by the exchange of notes between the Senior Consul and the Director General of the administration. Senior Consul states that "in manifesting receptivity to the present request of the Chinese authorities, the consular body is acting in consonance with its policy of facilitating the enforcement of valid taxes of the Chinese Government upon its citizens in the International Settlement provided the integrity of the Settlement administration is not impinged thereby [apparent omission] the proposed arrangement has the cordial approval of the foreign tobacco interest in the Settlement.

3. Unless the Department objects the Legation will concur in this agreement.

For the Minister:
PERKINS

893.512/1101 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, February 27, 1931—6 p. m.

70. Your 83, February 24, 4 p. m., paragraph 3. Department perceives no objection to proposed agreement.

STIMSON

²³ *Foreign Relations*, 1930, vol. II, p. 290.

893.5034 Business Tax/3 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 1, 1931—3 p. m.

[Received March 1—11 a. m.²⁴]

93. [From Perkins.²⁵] 1. American Consul General at Hankow, in compliance with the Department's 62, February 20, 5 p. m., reports:

"I anticipate strong efforts on the part of the Chinese authorities to enforce collection of this tax from foreign firms unless issue can be amicably adjusted between Ministry of Foreign Affairs at Nanking and foreign diplomatic representatives."

2. American Consuls at Foochow and Chefoo report that the authorities are seeking to enforce general business tax which would entail examination of record books of all firms both Chinese and foreign. Circular instructions are being requested to assist in the investigations incidental to the application of the tax to their nationals.

3. Action of Chinese provincial authorities is apparently based on "general outline for the business tax" recently approved by Executive Yuan and circulated to provinces (see my despatch 824, February 27²⁶). American Consul at Nanking has been instructed to procure unofficially text of this "outline". Business tax is understood to be a provincial tax authorized by Nanking to be used for local purposes in partial compensation for loss of *likin*.

4. Reference paragraph 3, Legation's 71, February 16, 7 p. m., British Legation states British Government takes position that business tax proposed is in violation of treaty rights and is not to be recognized as applicable to British subjects. Also that tax will be subject of representations to Ministry of Foreign Affairs by British Minister upon his return to Nanking.

5. From a purely practical standpoint the Legation submits the following comment:

(a) The Chinese possess an infinite capacity for the evasion of taxes not based upon land or other concrete objects. Therefore in practice such a tax would fall more heavily upon foreign firms.

(b) Since the tax is a local one the question of the taxation of foreign firms is somewhat analogous to that of foreign taxation for municipal purposes which the Department has approved if paid as "voluntary contributions". If the business tax is actually enforced against Chinese it will prove in quarters [*practice?*] extremely difficult for foreign firms to insist upon complete exemption; for the Chinese authorities will maintain that Chinese business would thus suffer discrimination and they are naturally in a position definitely to obstruct by various devices the recalcitrant foreign firms.

²⁴ Telegram in three sections.

²⁵ Mahlon F. Perkins, Counselor of Legation.

²⁶ Not printed.

6. In answering inquiries from consular officers is the Legation to be guided by Department's 62, February 20, 5 p. m., regarding Hupeh tax or does the Department desire to follow a policy somewhat more in accordance with its attitude toward municipal taxation?

Repeated to Minister at Nanking.

For the Minister:
PERKINS

893.5034 Business Tax/3: Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, March 6, 1931—5 p. m.

85. Your 93, March 1, 3 p. m.

1. You will be guided by Department's 62, February 20, 5 p. m., in answering inquiries from consular officers. However, Department perceives no objection to consular officers' pointing out to American firms who may apply to them for advice practical aspects of situation as set forth in your 93, Section 5.

2. In view of summary of regulations contained in your 71, February 16, 7 p. m., Section 1, Department considers that, in event of attempt by Chinese authorities to enforce regulations against American firms, you would be justified in making representations to Nanking Government.

3. Department desires full information by mail, including "general outline" referred to in your 93, Section 3, and text of regulations.²⁷

STIMSON

893.5034 Business Tax/4: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 6, 1931—5 p. m.
[Received March 6—9:15 a. m.]

107. Legation's 93, March 1, 3 p. m., paragraph 3.

Following from American Consulate at Nanking:

"March 5, 3 p. m. I am informed by the Ministry of Finance that reports appearing in Chinese press concerning procedure for collection of business tax are premature. I have been promised copy of procedure when it is promulgated."

For the Minister:
PERKINS

²⁷ Text of regulations not printed.

693.11246 Hoggard-Sigler/3

The Secretary of State to the Minister in China (Johnson)

No. 434

WASHINGTON, March 24, 1931.

SIR: The Department has received your despatches No. 619 of November 26, 1930, No. 644 of December 3, 1930,²⁸ and No. 757 of January 21, 1931, on the subject of the double collection of export dues from the Nichols Superyarn and Carpets, Federal, Incorporated, U. S. A., and from Messrs. Hoggard-Sigler.

The Department has carefully considered your communications of November 26, 1930, and of December 3, 1930, to the Chinese Minister of Foreign Affairs and the latter's reply of December 29, 1930, copies of all of which communications²⁹ were enclosed with your despatches under reference. The Department requests that you make further representations to the Chinese Government on this subject,³⁰ basing your request for a refund of the duties collected at Shanghai upon general principles of international law, as well as upon the pertinent provisions of the treaties between China and the United States, as stated in the Department's telegrams No. 212 of June 26, 1930, 4 p. m.,³¹ No. 219 of June 28, 1930, 3 p. m.,³² and No. 221 of June 28, 1930, 5 p. m.³³ You may call the attention of the Chinese Government to the generally accepted rule or principle of international law that taxes and customs paid to *de facto* authorities in control of an area (whether they be rebel authorities or authorities of a foreign country) must be considered as if they were paid to the regular authorities of a country. You may state that in taking this position the Government of the United States is not invoking a principle that has not been recognized by itself; that in the celebrated Castine case, which arose out of the occupation by British troops of the port of Castine, in Maine, the Supreme Court of the United States itself held that goods imported into Castine during its occupation by British troops were not subject to payment of customs duties under the laws of the United States after the British withdrew, and the United States resumed the exercise of its sovereignty, which, during British occupation, had been suspended. (See *United States versus Rice*, 4 Wheaton, page 246).

You may state further that Mr. Fish, Secretary of State, commenting upon the demand by the Mexican authorities for duty on goods imported into Mazatlan while that port was in the occupation of insurgents, stated as to the practice of the United States that "Since the

²⁸ Neither printed.

²⁹ None printed.

³⁰ The Minister in China sent a note dated May 8, 1931 (No. 287) to the Chinese Minister for Foreign Affairs.

³¹ *Foreign Relations*, 1930, vol. II, p. 256.

³² *Ibid.*, p. 261.

close of the Civil War in this country suits have been brought against importers for duties on merchandise paid to insurgent authorities. Those suits, however, have been discontinued, that proceeding probably having been influenced by the judgment of the Supreme Court adverted to", that is, the judgment of the Supreme Court in the Castine case noted above. (Moore's *Digest*, Volume I, page 41 et seq., particularly page 49).

Very truly yours,

For the Secretary of State:
JAMES GRAFTON ROGERS

893.5122/39

The Minister in China (Johnson) to the Secretary of State

No. 932

PEIPING, April 11, 1931.

[Received May 11.]

SIR: With reference to the Legation's despatch No. 912, of April 1, 1931,³⁵ concerning the collection from American citizens in Tsinanfu of a Chinese house tax, I have the honor to transmit herewith a copy of despatch No. 23, of April 7, 1931, from the American Consul at Tsinan.³⁵ The Department will note that Mr. Vincent, having assured himself of the non-discriminatory nature of the tax, believing the rate to be reasonable and the municipal services to be deserving of some support from American citizens and companies, and having due regard to the attitude adopted by his British, Japanese, and German colleagues, has suggested to American firms and individuals in Tsinan that the house tax be paid as a voluntary contribution toward the support of the municipal services rendered. It will be noted from the communication addressed by Mr. Vincent on March 25, 1931, to the Shantung Provincial Government (a copy of which is enclosed³⁶ with his despatch mentioned above), that he invited the Provincial Government's attention to the voluntary nature of the payments and to the fact that penalties may not be imposed upon American citizens for failure to make such voluntary contributions or to comply with any particular article or articles of the regulations.

The Legation is pleased to note that Mr. Vincent has succeeded in obtaining the agreement of the tax officials to the exemption from the house tax of American mission residences occupied by missionaries.

I have the honor to recommend that the Department approve the action taken by Mr. Vincent in this case.

Respectfully yours,

For the Minister:
MAHLON F. PERKINS
Counselor of Legation

³⁵ Not printed.

893.5122/40

The Secretary of State to the Minister in China (Johnson)

No. 494

WASHINGTON, May 19, 1931.

SIR: The Department has received your despatch No. 932 of April 11, 1931, in regard to the collection of a house tax from American citizens at Tsinan.

The action taken by the American Consul at Tsinan, as stated in your despatch under acknowledgment, is approved.

Very truly yours,

For the Secretary of State:

W. R. CASTLE, JR.

893 5034 Business Tax/25: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, June 25, 1931—4 p. m.
[Received June 26—10:22 a. m.]

367. Reference Legation's 267, May 13 [11], 5 p. m. and despatches of May 12 and June 1st.³⁶ American Consul General at Nanking on June 11 reported new business tax law passed by Legislative Yuan on June 6th but not promulgated by State Council. Ministry of Foreign Affairs in note dated July [June] 3 states that tax designed to compensate losses resulting from abolition of likin, that it does not contravene principles of taxation and is applied equally and without discrimination to Chinese and foreign merchants. Ministry requests that American merchants be entrusted [*instructed*] to pay tax as imposed by provinces under the "General Principles" and "Supplementary Rule[s]" previously reported to the Department.

Text of business tax law obtained unofficially from Legislative Yuan by Consul General Peck and being forwarded to the Department in pouch leaving tomorrow.³⁷

For the Minister:

ENTERT

893.512/1147: Telegram

The Minister in China (Johnson) to the Acting Secretary of State

PEIPING, June 30, 1931—5 p. m.
[Received 6:55 p. m.³⁸]

380. [1.] Following from American Consul at Foochow:

"Provincial Government contemplating levying a 25 percent surtax on customs duties for provincial needs. In the event such a surtax is

³⁶ None printed.³⁷ Not printed.³⁸ Telegram in two sections.

put into effect what attitude does the Legation desire me to adopt? The French, Japanese, and British Consuls are sending similar telegrams to their respective Ministers.[³⁹]

and Legation with Department's approval proposes to send following reply to Foochow:

"Legation has been informed that if tax is actually imposed upon foreign firms British and French Legations will instruct their Consuls to lodge protest with Provincial authorities on grounds that it is in violation of principle of uniformity of customs tariff on all land and maritime frontiers as provided in annexes to British confederation [*sic*] tariff treaties [*treaty*] of 1928.³⁹ In event such protests are lodged, you may insist that American firms shall be accorded nondiscriminatory treatment as compared with other foreign and Chinese firms."

2. Following from American Consul at Hankow:

"June 27, noon. A bureau has been established at Changteh, Hunan, to collect a 'products tax'. The American firm Werner G. Smith has been assessed 54 Mexican cents per picul on a shipment of 14,000 piculs of wood oil. In view of National Government's recent increase of export duties and lack of any official notice of establishment of bureau I request instructions whether I may lodge protest with Hunan Provincial Government in which event Legation may also wish to consider lodging protest with Nanking authorities."

Tax being only upon Chinese export products, Legation perceives no ground for protest unless upon an additional pertinent basis indicated in paragraph 1 above and/or on grounds that lack of notice of tax imposes hardship on American firm concerned. Department's instructions requested.

3. In this general regard, the Department is also referred to Tientsin's despatch of May 13, 1931, to the Legation (copies to the Department in May 29 pouch)⁴⁰ regarding unprotected Hopei provincial taxes on imports and exports.

JOHNSON

893.512/1147: Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, July 3, 1931—4 p. m.

220. Your 380, June 30, 5 p. m. The Department is making a study of the taxation questions raised in your telegram under reference, but,

³⁹ Treaty relating to the Chinese Customs Tariff, etc., between Great Britain and China, signed at Nanking, December 20, 1928, with annexes and exchanges of notes . . . , League of Nations Treaty Series, vol. xc, pp. 337, 352.

⁴⁰ Not printed.

pending the issuance of further instructions, your proposed reply to Foochow quoted in paragraph 1 of your telegram is approved.

CASTLE

893.156/41 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, July 15, 1931—3 p. m.

230. Your 389, July 4, 11 p. m.⁴¹

1. The Department concurs in the view of the Legation expressed in the first sentence of paragraph 4 of the telegram under reference and is of the opinion that every effort should be made to oppose any attempt of the Chinese Municipal authorities at Shanghai to enforce these new regulations against American nationals. Furthermore, the Department believes that this question should be discussed by the interested Ministers of the Protocol Powers⁴² with a view to an accord being reached among them in regard to similar representations to be made, either formally or informally, to the Chinese authorities either by the Ministers concerned or by their consular representatives in Shanghai. To assist you in discussing this question with your colleagues, the Department makes the following observations.

2. It is the Department's understanding that the right to grant title to foreshore land and to prescribe the conditions governing its use is vested in the National Government of China and not in the Provincial and Municipal Governments and that any law, rule or regulation in regard to rights in foreshore property should be promulgated or approved by the National Government. The rights of the National Government in the Shanghai area are restricted by the Land Regulations of the International Settlement and by various Whangpoo Conservancy Agreements, and these rights, whether exercised by the National Government or by its duly authorized agent, may be exercised only in conformity with the provisions of the agreements herein mentioned.

3. The regulations in question, if permitted to apply to foreshore property of American nationals, would seriously impair if not destroy existing rights in immovable property lawfully acquired by American nationals and evidenced by title deeds duly stamped by the appropriate Chinese authorities or by Shengko receipts issued by the Whangpoo Conservancy Board pursuant to Paragraph 5, Supplementary Article 12 of the Whangpoo Conservancy Agreement of 1912.⁴³ The regula-

⁴¹ Not printed.

⁴² See Protocol of September 7, 1901, *Foreign Relations*, 1901, Appendix (Affairs in China), pp. 312, 318.

⁴³ *Treaties, Conventions, etc., Between the United States of America and Other Powers*, 1910-1923 (Washington, Government Printing Office, 1923), vol. III, p. 3043.

tions, if enforced against American nationals, would also prevent their acquisition and use of foreshore property in accordance with the conservancy agreement mentioned. While, of course, the conservancy agreement referred to herein remains in force until amended or abrogated by agreement of the Chinese Government and the competent Treaty Powers, it is pertinent to note that its continued effectiveness was expressly recognized by the Chinese Government in Article 129 of the Treaty of Versailles⁴⁴ and Article 114 of the Treaty of Saint-Germain-en-Laye.⁴⁵

4. As you and the British Minister are mutually conversant with the provisions of the British and American drafts of the proposed new extraterritoriality treaties with China⁴⁶ in regard to those articles dealing with taxation and with rights in immovable property, you may discuss confidentially with the British Minister the relation of the provisions in these drafts to the new Municipal regulations under discussion. The Department would view with misgiving approval of any Municipal regulations which go further in matters of taxation than we have gone in the drafts referred to.

5. With regard to the instructions which you understand have been given to the British Consul General, referred to in paragraph 5 of your telegram, the Department does not understand why there should be any need to reaffirm title to water front property. If title documents have been duly issued in conformity with the provisions of applicable treaties or agreements, such documents would appear to constitute evidence of indefeasible title.

6. In the light of the Department's observations you may in your discretion again communicate your comments to the Department or proceed at once to discuss the question with your colleagues.

CASTLE

893.512/1152 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State

PEIPING, July 23, 1931—3 p. m.
[Received July 23,—2:05 p. m.⁴⁷]

456. 1. Reference Shanghai's despatch No. 6852 of March 31, 1931, to the Legation and Shanghai Senior Consul's circular No. 215-F-IV—

⁴⁴ *Treaties, Conventions, etc., 1910-1923*, vol. III, pp. 3329, 3332. China did not sign the Treaty of Versailles, but for application of certain articles, see *Agreements Between Germany and China Regarding the Restoration of the State of Peace*, signed at Peking, May 20, 1921, League of Nations Treaty Series, vol. IX, p. 271.

⁴⁵ *Treaties, Conventions, etc., 1910-1923*, vol. III, pp. 3149, 3186.

⁴⁶ For correspondence on the negotiations regarding extraterritoriality, see pp. 716 ff.

⁴⁷ Telegram in three sections.

of June 15, 1931,⁴⁸ concerning application of Chinese rolled tobacco consolidated tax regulations to Chinese residents of International Settlement, copies of which were sent direct to the Department.

2. Agreement affects notes exchanged on March 19th and 24th, respectively, between Shanghai Senior Consul and the Director General of the consolidated tax administration of the Ministry of Finance provided in article 1, that the rolled tobacco consolidated tax regulations should be applied in the International Settlement "to the Chinese residents only".

3. Agreement was expedient and necessary as cigarette manufacturers outside Settlement area, mostly foreign, were paying tax while manufacturers in the Settlement area, all of which though were Chinese, were not paying the tax. Tax immunity of Settlement residents thus resulted in discrimination in favor of Chinese residents as against foreign nonresidents.

4. Senior Consul's circular number 215-E-IV of June 15, 1931 gives draft of letter which Senior Consul proposed with assent of his colleagues to send to the Chairman of Municipal Council pointing out that because agreement limited application of tax to Chinese residents only certain nonextraterritorial foreign residents of the Settlement were taking advantage of it to manufacture cigarettes within the Settlement exempt from taxation. Department will note that Senior Consul proposed to notify the Chairman of the Municipal Council that the consular body would interpose no objection to the municipal agent "Applying in his discretion to the local Chinese courts for legal process against nonextraterritorial foreigners residing in the International Settlement" guilty of offenses against the rolled tobacco consolidated tax regulations.

5. In other words, consular body at Shanghai proposed, without reference to either the Chinese or to the diplomatic body, to extend agreement to nonextraterritorial foreigners resident in the Settlement.

6. This proposal received the approval of the entire consular body at Shanghai with the exception of the German Consul General who objects on the ground that: (1) existing agreement is applicable only to Chinese residents; (2) agreement may not be modified by consular body without previous consent of diplomatic body including representatives of nations without extraterritorial privileges who should be given an opportunity to examine agreement to see whether its application to their nationals would not be contrary to their existing treaties or most-favored-nation clauses; (3) it is dangerous to permit the rolled tobacco consolidated tax regulations to be applied to "any foreigners in the Settlement".

⁴⁸ Neither printed.

Next step will be for the Chinese to ask for the collection of the stamp tax from "non-Chinese in the Settlement," as well as the forthcoming business tax.

7. German Consul General proposed that if it is desired to allow prosecution of the Russian involved in the present case, consular body should waive objection to such prosecution only on the ground that the offender is a national of a "nontreaty power" it being understood that the term "treaty power" includes all powers having treaties and conventions with China.

8. The powers having assented to the application of the rolled tobacco consolidated tax to Chinese residents of the International Settlement, failure [to apply?] tax to "nontreaty power" nationals or to nationals of "non-extraterritorial powers" (or even to nationals of "extraterritorial powers") resident within the Settlement will obviously work to cause discrimination in favor of nationals of such powers as contrasted with Chinese within the Settlement or the nationals of extraterritorial powers outside the Settlement who are paying the tax.

9. Senior Consul's circular relating as it does to questions of Settlement administration should have been referred only to the consuls of powers having extraterritorial treaties and therefore concerned with reference to administration of the Settlement.

10. Legation is of the opinion that extraterritorial powers are within their rights in seeking to devise a means whereby discrimination in the incidence of such taxation may be eliminated but believes that this should be done by modification of agreement through further exchange of notes with director of consolidated tax administration.

11. Department's instructions are requested.

JOHNSON

893.512/1149 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, July 27, 1931—11 a. m.

249. Your 380, June 30, 5 p. m., 432, July 17, 6 p. m.,⁴⁰ and Department's 220, July 3, 4 p. m.

1. With regard to the surtax on customs duties at Foochow, Department approves protest concurrent with that of other Consuls on ground of violation of principle of uniformity of customs tariff on all frontiers. Department doubts need of supplementary statement insisting on non-discriminatory treatment.

⁴⁰ No. 432 not printed.

2. In case authorities attempt to collect this surtax, you should endeavor informally to persuade Minister for Foreign Affairs to have its collection discontinued and in presenting the case, you might be guided by the following:

The Chinese Government in proclamation of July 20, 1927, announced its intention to abolish all forms of taxation levied in the name of "likin" and destination taxes.⁵⁰ This policy was confirmed in Annex III of the Sino-British Tariff Treaty of 1928.⁵¹ By Chinese Government Mandate of January 17, 1930, and supplementary Mandate of October 6, 1930, the abolition was made applicable to all parts of China and effective as from January 1, 1931. In view of the history of the negotiations whereby there were concluded the treaties establishing China's tariff autonomy, and of the provisions of those treaties, relating to national tariffs, uniformity of duties on all Chinese frontiers, and most-favored-nation treatment; and in view particularly of the items cited above, it would appear entirely out of harmony with the letter and the spirit of the pronouncements and pledges of the Chinese Government for that Government or its provinces or municipalities to establish provincial import duties or to reestablish under any names or forms taxes equivalent thereto or to taxes which have been abolished in pursuance of pledges.

3. With regard to the "products tax" referred to in the second paragraph of your telegram, No. 380, it is not clear whether this is a production tax levied upon all wood oil produced in the province of Hunan or whether it is a tax levied only upon exports of wood oil. If the levy is assessed on exports in addition to the national export tax, it would seem that this tax warrants, for the reasons stated above, the making of a protest by the Consul General at Hankow and/or by the Legation.

4. The Hopei provincial taxes referred to in paragraph 3 of your telegram No. 380 would also appear to constitute an import tax imposed by the provincial government and would, therefore, seem to warrant an objection on similar grounds.

5. Referring to the wharfage dues and the dike surtax mentioned in your No. 432, Department considers that, as both are surtaxes on imports and exports, the instructions given above are also applicable to both. To the levying of a surtax for conservancy purposes, the Department would perceive no objection, provided arrangements for collection of such are embodied in an agreement similar to the arrangements in force with regard to such at certain other treaty ports.

⁵⁰ See telegrams No. 756, July 26, 1927, 4 p. m., and No. 765, July 27, 6 p. m., from the Minister in China, *Foreign Relations*, 1927, vol. II, p. 400.

⁵¹ League of Nations Treaty Series, vol. xc, pp. 337, 354.

In case it were proposed that there be levied a municipal tax not based on imports or exports and for conservancy purposes, the Department would perceive no objection, and for guidance in such case you should consult the Department's previous instructions with regard to payment of municipal taxes by American citizens.

CASTLE

893.512/1152 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, July 31, 1931—2 p. m.

256. Your 456, July 23, 3 p. m.

1. While Department has not yet received copy of Shanghai Senior Consul's circular of June 15, 1931,⁵³ referred to in paragraph 1 of your telegram under reference, Department concurs in Legation's views as expressed in paragraph 10 of telegram under reference that any change in existing arrangements should be made by modifying present agreement, following same procedure which resulted in conclusion of present agreement. Any such modification should be referred to Department before Legation gives its assent thereto.

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CASTLE

893.156/44 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State

PEIPING, August 11, 1931—6 p. m.

[Received 8:19 p. m.⁵⁴]

508. Department's 230, July 15, 3 p. m. With the Department's approval I propose to address a formal note to the Ministry of Foreign Affairs regarding this matter, the pertinent portions of which read as follows:

1. "An examination of the regulations issued by the Municipality of Shanghai and forwarded to me by the American Consul General at that port indicate that they seriously impair, if indeed they do not arbitrarily destroy existing rights in immovable property lawfully acquired and long enjoyed by American nationals. These rights are evidenced by title deeds duly stamped by the appropriate Chinese authorities or by Shengko receipts issued by the Whangpoo Conservancy Board pursuant to paragraph 5, supplementary article 12 of the Whangpoo Conservancy agreement of 1912. The regulations appear to prevent American nationals acquiring or using foreshore property as provided for in the Conservancy agreement mentioned,

⁵³ Not printed.

⁵⁴ Telegram in four sections.

the continued effectiveness of which was expressly recognized by the Chinese Government in article 129 of the Treaty of Versailles and article 114 of the Treaty of Saint-Germain-en-Laye. Furthermore, the regulations appear to make possible the arbitrary confiscation or expropriation without compensation of foreshore rights and property thus invalidating and undermining legitimate property rights.

2. As Your Excellency is doubtless aware it is the general practice of nations to make no charge for the use of the foreshore, it being recognized that such use is a natural one and inherent in riparian ownership. Riparian property acquired by American firms or citizens was obviously acquired for the use of the foreshore for such purposes as berthing vessels, et cetera. The levy of fees on such property therefore constitutes a serious interference with legitimate commercial activities, and is one to which I feel sure Your Excellency's Government is fundamentally opposed. There is the further consideration that under the existing treaties American firms and nationals are not legally liable for the payment of such fees. I therefore have the honor to request that the regulations be canceled or modified so as to ensure that the right of American owners of riparian property shall in no wise be impaired and that the owners may continue freely to use their respective water frontages, this being a right inherent in riparian ownership and confirmed by the general practice of nations."

3. As regards the point raised in second paragraph of Department's July 15, 3 p. m., the organic law of municipalities promulgated by the Chinese Government on May 20, 1931, provides *inter alia* that "a municipality shall adhere to the following matters insofar as they do not conflict with the laws and orders of the central authorities and those of higher organs: (item 22) waterways, harbor works and the management of matters connected with navigation." Furthermore, that a municipality may make appropriate rules and regulations. There therefore appears to be no question as to the competency of the Shanghai municipality to issue regulations governing the use of foreshore property and for this reason I have not raised this point. The British have also refrained from raising this question.

4. British have already forwarded note requesting cancellation of regulations. Japanese and French apparently waiting to see outcome of British efforts.

JOHNSON

893.5034 Business Tax/37

The Minister in China (Johnson) to the Acting Secretary of State

No. 1128

PEIPING, August 17, 1931.

[Received September 14.]

SIR: I have the honor to refer to my despatch No. 1075 of July 7, 1931,⁵⁵ regarding the new Business Tax Law and to enclose a copy of

⁵⁵ Not printed.

my formal note of August 7, 1931, to the Minister for Foreign Affairs, the substance of which was telegraphed to the Department in my No. 503, August 10, 6 p. m.,⁵⁶ pointing out various objectionable features of the new law and requesting that this whole question be given further careful consideration.

I have incorporated in the note the various objections and suggestions made by Mr. C. H. French, President of the American Chamber of Commerce at Shanghai, Mr. Julean Arnold,⁵⁷ and various American business men, and for the information of the Department enclose memoranda and letters from the individuals mentioned.⁵⁸ Copies of Legation's circular instruction No. 137 of August 13, 1931, to American consular officers in China regarding the new Business Tax have been forwarded to the Department.⁵⁹

Respectfully yours,

NELSON TRUSLER JOHNSON

[Enclosure]

The American Minister (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang)

No. 335

PEIPING, August 7, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's formal note of June 3, 1931,⁵⁶ requesting that American firms be instructed to pay the new business tax which Your Excellency characterizes as non-discriminatory, beneficial to commerce, and in conformity with the general principles of taxation.

While I have not been officially apprised of the promulgation of the new National Business Tax Law or of the regulations for its enforcement; and while I have not received from Your Excellency the text of the new law, it is my understanding that it was promulgated by mandate of the National Government dated June 13, 1931.

The question of the payment of taxes by American citizens is, as Your Excellency knows, even now a matter subject to negotiation and agreement between our two countries in connection with the general question of extraterritoriality, and until those negotiations have been completed and an agreement reached and ratified, I am not in a position to inform American citizens that they should comply with the law which imposes a tax upon their several businesses.

Because of the important bearing that such a law has upon the welfare of American citizens in China, and more particularly in view of the current negotiations relating to the relinquishment of extraterritorial rights, I have caused this law and the regulations for its

⁵⁶ No. 503 not printed.

⁵⁷ Commercial Attaché in China.

⁵⁸ Not printed.

enforcement to be perused and compared with several of the provincial laws and regulations presumably issued under its sanction and which have been sent to me from time to time by the American consulates concerned.

With specific reference to the national law of June 13, 1931, it would appear that the name given to the tax in question does not correctly describe what is in reality a business income tax levied upon the capital or income of the several businesses classified in the law.

The law calls for the imposition of a tax on income or capital according to a system of schedules of graduated rates. Such a system is extremely difficult of equitable application. Schedules of uniform rates would be far more equitable. Under the present provisions of the law a merchant doing a nation-wide business, whether Chinese or foreign, lacks any assurance that the tax will be uniformly administered either among the several provinces or in relation to taxes of the same or similar lines of business.

As now written the national law is very vague as to classification of businesses to be used as a basis for the assessment of taxes against capital, gross income, and net profits. In consequence, the business man is left in great uncertainty as to the category into which his business is to be placed for purposes of taxation in the several provinces. Each of these classifications should be carefully defined in the law and the method of the application of the tax should in each instance be clearly set forth. For instance, in the case of a tax against net profits it is to be presumed that an audited statement of profit would be required. The law should stipulate what qualifications an auditor should have.

Your Excellency's attention is also called to the ambiguity of Article 8, from the language of which it is not clear whether it is intended that no additional taxes of any nature whatsoever are to be collected from firms paying the business tax or whether it is proposed merely that no surtax is to be collected on the business tax. The real intent of this Article is of the utmost importance and is naturally of great interest to both Chinese and foreign firms. It is accordingly most desirable that the wording of the Article be amended so as to remove the existing ambiguity as to its significance.

Whereas Article 9 of the law would appear to call for the setting up of official agencies for the collection of this tax, my information is that in Peiping and in Shanghai the local chambers of commerce are to be entrusted with the task of such collection. There would appear to be objection to such a method of collection because chambers of commerce, although possibly possessing a quasi-official status, are composed of members of the business community and there would always exist among those liable for the payment of the tax a feeling

that favoritism might be shown by a chamber committee to certain firms.

A still more serious objection to the law as it now stands concerns itself with the failure to provide non-administrative machinery for the handling of complaints against over-assessment, and an opportunity for appeal against decisions as rendered. Such machinery should be of a nature to ensure against unreasonable delays and against an unjust application of the law to firms amenable thereto.

With reference to provincial legislation, a perusal of the laws and regulations issued in the provinces of Hupeh and Liaoning indicates that the great latitude accorded to the provinces in the interpretation of the national law has resulted in a wide divergence from what appears to have been the intent of that law.

For instance the law promulgated for the province of Liaoning specifies rates of taxes greatly in excess of the limits set in the schedules mentioned in the national law.

Penalties under the Liaoning regulations, as well as under the regulations issued by the province of Hupeh, are to be administratively and arbitrarily imposed, no provision being made whereby the individual may have his liability passed upon by a proper court of justice.

The Liaoning regulations further contain a very objectionable provision for the payment, out of fines, of rewards to any one discovering a tax delinquency.

In view of the considerations outlined above, I venture to suggest to Your Excellency that this whole subject be given further careful consideration to the end that an equitable, precise, and centrally controlled system be evolved which, while meeting the revenue needs of the provinces, will not be an undue burden on business.

I avail myself [etc.]

NELSON TRUSLER JOHNSON

893.156/44: Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, August 17, 1931—1 p. m.

278. Your 508, August 11, 6 p. m. It would be difficult for Department to maintain the proposition set forth in the first sentence of paragraph 2 and Department is of the opinion that that sentence should be deleted and appropriate change made in concluding sentence of proposed note. Otherwise, Department approves text of note.

CASTLE

893.156/46 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, September 15, 1931—11 a. m.
[Received September 15—2:10 a. m.]

583. My 508, August 11, 6 p. m. Following from Cunningham: ⁶⁰

"September 14, 4 p. m. My despatch No. 6925, June 8th enclosing foreshore regulations.⁶¹ Shanghai Municipal Gazette August 20 contains revised foreshore regulations in nine articles only promulgated July 31. Revised regulations draft for articles 1, 2, 3, 4, 5, 6, 11, 19 and 20 of former regulations with minor modifications in those articles. Remaining articles of former regulations omitted. Standard Oil Company has been again approached to obtain foreshore permit fee.

Despatch follows."⁶²

JOHNSON

893.512/1169

The American Minister in China (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang) ⁶³

No. 364

PEIPING, September 25, 1931.

EXCELLENCY: I have the honor to inform Your Excellency that the American Consul General at Hankow reports the recent imposition of certain taxes in Hunan, namely, wharfage dues, a dike surtax, and a production tax, which are collected in the form of a surtax on all imports and exports. A copy of the proclamation issued by the Provincial Government regarding the collection of wharfage dues and the dike surtax is enclosed ⁶⁴ for the information of Your Excellency.

Acting under instructions from my Government, the American Consul General at Hankow protested against the collection of such taxes, and under date of August 5, 1931, addressed a formal communication, a copy of which is enclosed,⁶⁵ to the Chairman of the Hunan Provincial Government. A copy of General Ho Chien's reply of September 4, 1931, is also enclosed.⁶⁶

Inasmuch as these taxes are definite surtaxes on imports and exports, I must strongly protest against their collection, in so far as American firms are concerned. Furthermore, I desire to call Your Excellency's attention to the fact that in a proclamation dated July

⁶⁰ Edwin S. Cunningham, Consul General at Shanghai.

⁶¹ Not printed.

⁶² Not printed; for résumé, see telegram No. 694, October 3, from the Minister in China, p. 1006.

⁶³ Copy transmitted to the Department by the Minister in China in his despatch No. 1189, September 25; received October 26.

20, 1927, the Chinese Government announced its intention of abolishing all forms of taxes levied in the name of "likin" as well as destination taxes, and that this policy was confirmed in Annex III of the Sino-British Tariff Treaty of 1928, and by a Supplementary Mandate dated October 6, 1930. The abolition was made applicable to all parts of China and became effective on January 1, 1931. My Government feels, therefore, that in view of the history of the negotiations whereby there were concluded the treaties establishing China's tariff autonomy and of the provisions of those treaties relating to national tariffs, uniformity of duties on all Chinese frontiers, and most-favored-nation treatment, and in view particularly of the items cited above, it would appear entirely out of harmony with the letter and the spirit of the pronouncements and pledges of the Chinese Government for that Government or its provinces or municipalities to establish provincial import duties or to reestablish under any name or form taxes equivalent thereto or taxes which have been abolished in pursuance of pledges. I, therefore, have the honor to request that instructions be issued to the Chairman of the Hunan Provincial Government to stop the collection of these imposts on shipments of American merchants.

I avail myself [etc.]

NELSON TRUSLER JOHNSON

893.156/48 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 3, 1931—8 a. m.

[Received October 3—4 a. m.⁶⁶]

694. Legation's 583, September 15, 11 a. m. Cunningham, in mail despatch September 18, presumably which is being forwarded to the Department,⁶⁶ states that revised regulations on several of the objectionable articles such as those as provided for taking over of wharves and deposit of cash security equivalent to a 6 months' fee and that as regulations now stand only two points appear to be involved:

(1) That the riparian owner in order to avail myself [*himself*] of the use of the foreshore must apply to the Land Bureau for a permit; and,

(2) That he must pay a license fee to the Land Bureau for the privilege of using this foreshore.

The Consul General also reports that Standard Oil Company and Robert Dollar Company have recently received renewed requests from Land Bureau for payment of half yearly fee on their respective properties and that he advised them pending conclusion of negotiations

⁶⁶ Telegram in two sections.

⁶⁶ Not printed.

with Chinese authorities the question of payment of this fee should be held in abeyance.

This is also the attitude of the British Consulate General.

The Consul General considers that the revised regulations represent an attempt on the part of the local Chinese authorities to meet the objections of interested Consuls; that in all probability the Chinese will not go further towards meeting our wishes in the matter; that therefore he is inclined to recommend that the Legation accept these revised regulations as a compromise and that American firms then be told that there was no objection to paying the fee in question. He adds, however, that before taking any action he requests instructions of the Legation. I concur in the opinion of the Consul General and suggest that we temporarily accept these regulations but desire Department's approval.

JOHNSON

893.156/48 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, October 9, 1931—4 p. m.

373. Your 694, October 3, 8 a. m. in regard to Shanghai foreshore regulations.

1. Until the Department has received Shanghai's mail despatch of September 18,⁹⁷ with which it is presumed that a copy of the revised regulations are being transmitted, the Department prefers not to approve Shanghai's recommendation that the revised regulations be accepted and that American firms be advised to pay the required fees.

2. The Department desires to know (a) whether the revised regulations have been communicated officially by the Chinese authorities either to the Consulate General at Shanghai or to the Legation; (b) whether the Legation has received a reply from the Minister for Foreign Affairs to the Legation's note of August 20,⁹⁸ and (c) whether the British Minister and/or your other interested colleagues are prepared to accept the revised regulations and to advise their nationals to pay the required fees.

3. If the Chinese authorities at Shanghai continue to press American nationals to comply with the revised regulations, the Consul General, in his discretion, may inform the Chinese authorities that he has advised American nationals not to comply pending the receipt of instructions from his Government.

STIMSON

⁹⁷ Not printed.

⁹⁸ See telegram No. 508, August 11, 6 p. m., from the Minister in China, and telegram No. 278, August 17, 1 p. m., to the Minister, pp. 1000 and 1004.

893.156/49 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 20, 1931—9 a. m.

[Received October 20—5:10 a. m.]

795. Department's 373, October 9, 4 p. m.

1. With reference to paragraph 2 (a) and (b) : Revised regulations officially communicated to Legation by Foreign Office note dated September 21, 1931, in reply to Legation's note of August 20th and forwarded to Department with Legation's despatch No. 1209 of October 7th.⁷⁰

2. With reference to paragraph 2 (c) : British Minister has instructed Consul General at Shanghai in the sense that revised regulations are much more acceptable and that in view of provisions of Sino-British treaty now under discussion by virtue of which the many British owners of riparian property located outside of "reserved areas" will automatically come under Chinese jurisdiction, it would be policy to accept reasonable regulations such as these now appear to be. However, British Consul General was instructed to take note next move of the Chinese authorities. Briefly, British attitude is that if British owners of riparian property are definitely pressed by the Chinese authorities it would be expedient tacitly to accept the regulations.

Attitude of the Japanese and French Legations will be communicated to Department as soon as ascertained.

For the Minister:

ENGERT

893.156/51 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, November 9, 1931—4 p. m.

[Received November 9—6:15 a. m.]

895. Legation's 899 [869], November 4, 11 a. m.⁷⁰ Regarding foreshore regulations, Japanese Legation now informs me Japanese Government not in a position to accept revised regulations.

For the Minister:

ENGERT

⁷⁰ Not printed.

893.512/1179

*The American Minister in China (Johnson) to the Chinese Acting
Minister for Foreign Affairs (Wellington Koo)*⁷¹

No. 376

PEIPING, December 4, 1931.

EXCELLENCY: I have the honor to refer to the Legation's formal note of September 25, 1931, to which no reply has been received, concerning the imposition of certain taxes in Hunan, namely, wharfage dues, a dike surtax, and a production tax.

The Legation has now received a further report from the American Consul General at Hankow, enclosing a copy of a proclamation issued by the Hunan Provincial Government establishing a combined "Production-Consumption Tax" to be levied on "all the principal special commodities imported from other provinces or exported out of this province and on products sold within the limits of this province." A copy of the text of this proclamation together with the regulations promulgated to govern the collection of this tax are enclosed⁷² for the information of Your Excellency. A careful examination of these regulations indicates that this new "Production-Consumption Tax" is a definite tax on goods imported, exported, and sold in the province of Hunan and that other than for its new name it is indistinguishable from likin.

The Legation in its formal note of September 25, 1931, called the Ministry's attention to the solemn undertakings of the National Government with respect to the abolition of likin. It is constrained once again to invite the serious attention of Your Excellency's Ministry to the flagrant violation of these undertakings as represented by the imposition of a tax of this nature. It is, therefore, requested that instructions be issued to the appropriate authorities to effect the immediate abolition of this tax in so far as American trade in the province of Hunan is concerned. The courtesy of an early reply from Your Excellency will be greatly appreciated.

I avail myself [etc.]

For the Minister:
MAILTON F. PERKINS
Counselor of Legation

⁷¹ Copy transmitted to the Department by the Minister in China in his despatch No. 1209, December 4, 1931; received January 2, 1932.

⁷² Neither printed.

APPLICATION OF CHINESE JURISDICTION TO AMERICAN MISSIONARY,
EDUCATIONAL, AND MEDICAL ENTERPRISES AND PERSONNEL IN
CHINA¹

893.1281/30 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, June 3, 1931—1 p. m.
[Received June 3—10:45 a. m.]

309. Department's mail instruction No. 129, June 5, 1930.² Following from Chefoo:

"May 28, 2 p. m. Reference is made to the Legation's circular instruction No. 41 of July 10, 1930,³ regarding registration of physicians. Foreign physicians now requested by Chinese authorities to apply for licenses to practice medicine. Chinese regulations require that foreign physicians present diplomas and qualification certificates to Consul for examination and that Consul issue identifying certificate to the applicant. There are three American missionary physicians at Chefoo at present and they approve of registration. Respectfully request instructions."

Tientsin municipal government has addressed a communication to the American Consulate General at Tientsin requesting that medical practitioners be instructed to apply for registration and licenses, procedure similar to that described in telegram above quoted to be followed. Gauss⁴ states:

"It seems to me that if the early abolition of extraterritoriality is anticipated in the treaty ports or in the interior where there are a number of medical missionaries, it might be well to bring to the attention of all American citizens engaged in the practice of medicine and surgery in China the regulations governing registration and licensing of medical practitioners and the special rules of procedure now adopted for use in the case of foreign physicians and surgeons. Such American citizens might if they desired obtain registration and the issuance of licenses and be saved considerable embarrassment later if Chinese jurisdiction should extend to them under an arrangement for the abolition of extraterritoriality.

I presume that the consular certificate which seems to be required need do no more than certify the presentation to the Consular Officer of certain carefully described diplomas and medical certificates held by the applicant."

The Legation agrees with Gauss' first and last sentence quoted above but is inclined to the opinion that, for the reasons indicated herein, the immediate difficulties which may be apprehended in case of general compliance with the regulations on the part of American physicians

¹ Continued from *Foreign Relations*, 1930, vol. II, pp. 538-545.

² *Ibid.*, p. 541.

³ Not printed.

⁴ Clarence E. Gauss, Consul General at Tientsin.

would be greater than any possible future embarrassment incurred by nonregistrants following the relinquishment of extraterritoriality.

Article 20 of the regulations is regarded as particularly objectionable since, as the Department will recall, there have been several instances where trouble has been caused the physicians in China by relatives [of a?] patient who, through no lack of medical skill or attention, died. The most recent incident of the sort was reported in Canton's despatch No. 45, May 18⁵ (political report for April).

It is believed that registration by American physicians would result in even further encroachment by Chinese authorities upon extraterritorial privileges of such individuals in particular and possibly in unfair pressure being brought to bear upon nonregistered physicians.

Department's attention is invited to article 301 of the Chinese criminal law (see enclosure No. 1 to Shanghai's despatch No. 5663, September 10, 1928⁵).

English translation contains words "through negligence" whereas Chinese text does not seem necessarily to imply negligence on the part of persons who unintentionally cause bodily harm. Legation is addressing note to Foreign Office requesting precise definition of Chinese term.

For the Minister:
PERKINS

893.1281/30 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, June 16, 1931—4 p. m.

198. Your 309, June 3, 1 p. m. As stated in the Department's instruction No. 129, of June 5, 1930, the Department considers that American citizens practicing medicine and surgery in China are subject to the jurisdiction of American laws and courts and cannot therefore be required to conform to Chinese regulations which would subject them to control by Chinese authorities.

However, in the absence of laws or regulations of the United States specifically applicable to American practitioners of medicine and surgery in China, it appears desirable to cooperate as fully as possible with the Chinese authorities in efforts to establish reasonable regulations on the subject. The Department therefore considers that American consular officers may properly comply with the request for the issuance of consular certificates describing the diplomas and medical certificates held by applicants and that the Chinese authorities and American citizens concerned should be advised, if and when the ques-

⁵ Not printed.

tion arises, of this Government's desire to cooperate in the enforcement of the regulations, subject to the understanding that jurisdiction over American citizens in China must be retained by the appropriate American officials.

STIMSON

393.1164/146

*Memorandum by the American Consul General at Nanking (Peck) of a Conversation With the Chinese Acting Minister of Education (Li Shu-hua)*¹

[NANKING,] July 10, 1931.

Mr. Peck called on Mr. Li Shu-hua by appointment. He explained to the Minister of Education that he had enjoyed meeting him at the dinner given by the Minister for Foreign Affairs the previous week and wished to make his further acquaintance.

Mr. Peck explained to Mr. Li that during this period when the American Legation had not yet been moved to Nanking, the Department of State had appointed him, Mr. Peck, as a diplomatic officer resident in the Capital and desired that he keep the Department as fully informed as he could in regard to the activities of the Chinese Government and its attitude on various questions. Mr. Peck referred to the interest taken by the American Government in educational affairs in China, and said that this was a subject to which special attention would be given.

Mr. Li referred to the remission of the Boxer Indemnity for educational uses, and to the China Foundation for the Promotion of Education and Culture, etc.,² as instances in which the American Government had set an example to other nations.

Mr. Peck said that in addition to the interest felt by the American Government, American citizens, as well, felt a great interest in the progress of education in China. The great number of schools established by them in China showed this. Mr. Peck referred to the matter of the registration with the Chinese authorities of educational institutions conducted in China by American organizations and observed that many institutions had so registered. Mr. Li observed that many of these institutions had been founded primarily with the attainment of religious objects in view, which fact, he understood, made it difficult for them to conform with the regulations which required the segregation of religious from secular instruction. Mr. Peck confirmed this, and said that he understood that the Ministry of Education did not object to the giving of religious instruction, provided it were given as some

¹ Copy transmitted to the Department by the Consul General at Nanking in his despatch No. D-60, July 16; received August 17.

² See *Foreign Relations*, 1924, vol. I, pp. 551 ff.

thing quite distinct from the other courses of instruction. Mr. Li confirmed this.

Mr. Peck said that it was regrettable that the Branches of the Kuomintang (the Provincial Tang-pu) often were so hostile to American educational institutions, and he instanced the trouble caused to the Chi-lu University in Tsinan, Shantung. Mr. Li hastened to assure Mr. Peck that the Kuomintang must not be taken as harboring anti-foreign feelings. Mr. Peck remarked that the impression was general among foreigners that the Kuomintang was hostile to foreigners, and he supposed the reason was that so many of the slogans used by the Party were directed against foreigners.

Mr. Li was very cordial in his attitude.

RETENTION OF UNITED STATES ARMY FORCES IN CHINA¹

893.0146/150 : Telegram

The Secretary of State to the Consul General at Nanking (Peck)

[Paraphrase]

WASHINGTON, April 24, 1931—6 p. m.

26. For the Minister:

(1) The War Department has raised the question as to retaining further United States Army forces at Tientsin. The War Department advanced the view that the present force is no longer able to perform the primary function under the 1901 Protocol² or, in the event of serious antiforeign trouble, the secondary function of protecting American lives in the Tientsin area; cited the need for its personnel elsewhere; advanced considerations of economy; and expressed the view that, with the development of the spirit of Chinese nationalism, the continued presence of the American troops conceivably may become a source of friction, while their voluntary withdrawal might have a good effect on the relations between the two countries. This Department has no record of "an official communication from the American Minister at Peking, dated June 3, 1928", which is quoted by the War Department.

This Department has expressed the view to the War Department that it would not be opportune at present to consider the question; that such consideration should be put off until the extraterritoriality question is settled, and that, in any case, no move should be made unless the other powers most concerned have first been consulted.

¹ For previous correspondence on the reduction of American armed forces in China, see *ibid.*, 1929, vol. II, pp. 538 ff.

² Signed at Peking, September 7, 1901, *ibid.*, 1901, Appendix (Affairs in China), p. 312.

(2) It occurs to the Department, however, that this Government's willingness in principle to withdraw the American Army force at the first opportune moment possibly might prove useful to you at your discretion at some point in the extraterritoriality conversations.³

(3) An expression by you of your views on both these points would be welcome to the Department.

STIMSON

893.0146/152 : Telegram

The Minister in China (Johnson) to the Secretary of State

[Paraphrase]

NANKING, April 27, 1931—11 a. m.

[Received April 27—7:45 a. m.]

Your 26, April 24, 6 p. m.

(1) I am in agreement with the War Department that the time will arrive soon when the question of voluntarily withdrawing United States Army forces at Tientsin should be given consideration.

(2) I emphatically believe the present not to be an opportune moment for consideration of this question and that the other powers should be consulted before we take action.

(3) It would be a tactical error, in my opinion, to indicate during the extraterritoriality discussions our readiness in principle to withdraw the Army force. As indicated by the Department's 27, April 25, noon,⁴ Tientsin will become a factor of importance in the course of these negotiations, and it is the intention of the British Government, as expressed to me by the British Minister in China, to insist upon reserving both Shanghai and Tientsin from Chinese jurisdiction. I am sincerely convinced that our extraterritorial negotiations should continue and, if an agreement is happily reached, that we should let a period of time elapse to permit determination as to how faithfully and well the Chinese are carrying out the terms of said agreement. Then the moment will arrive for the Secretary of State to signalize the agreement's accomplishment by a public statement which would express confidence in China's stabilization and good faith, this to be accompanied by a statement of the prospective withdrawal of the American Army force at Tientsin. Pending such time it would be of no value, I feel, to say anything.

JOHNSON

³ See pp. 716 ff.

⁴ *Ante*, p. 809.

893.0146/153

The Secretary of State to the Secretary of War (Hurley)

WASHINGTON, May 20, 1931.

MY DEAR MR. SECRETARY: Your letter of April 9, 1931,⁵ requesting that I give consideration to the question of further retention of Army forces in China, is before me. You refer to various factors, in the light of which you explain that, from the viewpoint of the War Department, the removal of our forces at Tientsin is desirable, and you inquire whether I can see my way clear to concurring in the withdrawal of this garrison.

In reply, I have to say that, having for some time had the possibility of such a move under consideration, it has been and is my view that we should take no action in the matter without first consulting with other powers most concerned. When the opportune moment comes, I shall be glad to take the initiative, internationally, if circumstances warrant. The present moment, however, I do not think an opportune one for proposing or taking action in the matter. Until the situation in China has changed somewhat and until certain questions which are under negotiation between us and the Chinese have been disposed of, I think it would be inexpedient for us to make or to initiate this move. The opportune moment may come in the not distant future. In the interval, if the War Department feels it imperatively necessary, I perceive no objection to a gradual and inconspicuous reduction in the number of men in the force at Tientsin.

Sincerely yours,

HENRY L. STIMSON

893.0146/157

Memorandum by the Assistant Chief of the Division of Far Eastern Affairs (Hamilton) of a Conversation With Major Hayes A. Kroner of the Military Intelligence Division, War Department

[WASHINGTON,] June 29, 1931.

Referring to telegram No. 372 of June 27, 11 a. m., from Peiping,⁵ stating that a press despatch from Washington reported that the number of American forces on duty at Tientsin was to be reduced effective September 1,—

Mr. Hamilton had telephoned Major Kroner the substance of the Peiping telegram under reference. After looking into the matter in the War Department, Major Kroner called and stated that reduction of 208 in American troops at Tientsin begins September 1 and will be spread over a period of from six to eight months and that this reduction is a purely administrative matter of the War Department whereby

⁵ Not printed.

the Fifteenth Infantry will furnish 208 enlisted men as a contribution toward the fifth increment of the United States Army Air Corps increase.

Major Kroner stated that M. I. D. had not been consulted with reference to the War Department releasing to the press notice of the contemplated reduction in the Army forces at Tientsin. He expressed regret that the information had been given to the press. His attention was called to this Department's letter of May 20 to the War Department wherein the Secretary of State informed the Secretary of War that "if the War Department feels it imperatively necessary, I perceive no objection to a gradual and inconspicuous reduction in the number of men in the force at Tientsin."⁷

(Note: Mr. Hornbeck also talked with General Moseley⁸ on this subject.)

M[AXWELL] M. H[AMILTON]

ATTITUDE OF THE DEPARTMENT OF STATE ON THE EXPORT TO CHINA OF ARMS OR MUNITIONS, INCLUDING MILITARY AIRCRAFT¹

893.113/1303

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With Mr. Rogers of the Bureau of Aeronautics, Department of Commerce

[WASHINGTON,] June 8, 1931.

Mr. Rogers said that he wished to become oriented with regard to the present policy in connection with export of arms to China. In view of developments at Canton, had there been any change? The United Aircraft Company and the Curtiss-Wright Company were bent on some sales to Canton.

Mr. Hornbeck stated that there had been no change in policy. He said that we had had to make some slight readjustments in reference to procedure. The constant principle is that we wish to grant license to export only on consignments the export of which is known to us to be approved and desired by the National (Nanking) Government of China. For Mr. Rogers' confidential information, we have had reason to believe that certain notifications from the Nanking Government are being delayed in the process of communication to us, and we have taken temporarily the position that, where we learn definitely

⁷ This subject was reported to the Minister in China in Department's telegram No. 212, June 29, 1931, 5 p. m., with the added instruction that the Minister might make use at his discretion of parts of the information in discussion with his colleagues.

⁸ Maj. Gen. George Van Horn Moseley, Deputy Chief of Staff, War Department.

¹ For previous correspondence regarding cancellation of the embargo on shipment of arms to China, see *Foreign Relations*, 1929, vol. II, pp. 523 ff.

through another acceptable channel that the Nanking Government has given the notification, we will, on presentation of application for license to export, approve.

There followed inquiries by Mr. Rogers with regard to exporting to Hong Kong, Canton, Indo-China, and Yunnanfu. Mr. Hornbeck explained that, for export to Hong Kong or to Indo-China, no license is required, but that we would do what we properly can in cases where we know that the ultimate destination is a point in China, to discourage the transaction in the absence of notification to us that the Nanking Government approves.

Mr. Rogers inquired about export of commercial planes. Mr. Hornbeck said that for these no license is required; he called attention to the press release of June 2, 1930,² especially the list on page 2 thereof. He said that licenses would be useful in order to prevent doubt and possible delay at the port of export, as customs officers would be likely, if they erred, to err on the side of caution and might hold back planes which were of ambiguous construction.

Mr. Rogers said that some of the aircraft companies were inclined to attempt to "get around" our regulations and policy wherever they saw a possible sale in sight. Mr. Hornbeck said that this would indicate short sightedness on their part, inasmuch as encouragement given to civil war in China, while it may mean increase of small sales temporarily, must mean in the long run a retarding of large purchases which might and probably would be made by the Central Government if, relieved of the necessity for fighting for its existence, it could accumulate resources sufficient for the carrying out of a broad gauge program of equipment and construction. Mr. Rogers said that he agreed.

Mr. Hornbeck explained the objection in principle of this Department to transactions involving the necessity for purchase, in fulfillment of contracts to export, of military equipment from American Government Departments. Mr. Rogers said that he considered it highly inadvisable for the Government to be directly associated with trade in arms for export to foreign countries, and that he considered that our attitude with regard to the matter was altogether sound. He said that he would endeavor to discourage that type of transaction. But, he said, the aircraft companies, some at least, care nothing about the Government's policy or other considerations if they see immediate profit in sight.

The view was expressed and concurred in that the Department of Commerce and the Department of State must keep in close touch and work in close cooperation on this matter.

S[TANLEY] K. H[ORNBECK]

² Department of State, *Press Releases*, June 7, 1930 (no. 36), p. 273.

893.113/1305

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck) of a Conversation With the Counselor of the British
Embassy (Campbell)*

[WASHINGTON,] June 12, 1931.

Mr. Hornbeck, with Mr. Castle's³ approval, called Mr. Campbell on the phone and stated that we had observed in news reports and we had been informed from other sources that the British authorities at Hong Kong are holding up certain shipments of arms billed to Canton, in the absence of notification from the Chinese (Nanking) Government that that Government desires that the shipments be permitted to be exported, for import into China. Mr. Hornbeck said that this leads us to infer that the attitude of the British Government is identical with that of the American Government, and our practice the same: we are, as we have done for the past two years, insisting on notification that the Chinese (Nanking) Government desires the export, before we approve application for license to export. Mr. Campbell said that he understood and that his Government would be interested to have the information.⁴

S[TANLEY] K. H[ORNBECK]

893.113/1308

*The American Minister in China (Johnson) to the Chinese Minister
for Foreign Affairs (C. T. Wang)*⁵

No. 312

PEIPING, June 24, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of a note dated June 4, 1931, from Your Excellency's Ministry,⁶ requesting that American merchants be instructed that no contract providing for the purchase by any local government in China of firearms or any article for military use may be concluded unless a permit is formally issued by the Central Government, and to state that, in accordance with your request, this information is being brought to the attention of American Consular Officers in China for the information of those interested. A copy of Your Excellency's note under reply is also being transmitted to the Department of State at Washington.

I avail myself [etc.]

For the Minister:

C. VAN H. ENGERT

First Secretary of Legation

³ William R. Castle, Jr., Under Secretary of State.

⁴ Marginal notation by the Under Secretary of State reads: "I said the same thing to the Ambassador when he called. WRC jr."

⁵ Copy transmitted to the Department by the Minister in China in his despatch No. 1049, June 24; received July 20.

893.113/1304 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State

PEIPING, July 9, 1931—5 p. m.

[Received July 9—10 a. m.]

406. Following telegram has been received from Consulate at Hong Kong.

"July 7, 4 p. m. According to the local agent of L. E. Gale Company⁷ eight military planes are expected to arrive in Hong Kong shortly from England and Germany for Cantonese Government. The agent complains that shipments of military supplies of various sorts are being made freely from European countries to Canton whereas the United States Government will not permit the exportation of articles of this sort to Canton under present conditions.

It appears that Hong Kong Government is permitting military supplies to pass through to Canton if satisfied that shipments are direct. Colonial Secretary tells me that this is being done under provision of Barcelona convention of 1921⁸ as interpreted by the British Foreign Office, but that no shipments originating in Hong Kong are permitted to go to Canton. From what I can gather considerable quantity of munitions, apparently from Germany and other European countries, are now passing through Hong Kong to Canton.

The Colonial Secretary says he does not know specifically from what countries these supplies originate but it is his understanding that the British regulations respecting the exportation of arms to China are identical with those now in force in the United States. While I do not see that the Gale Corporation has any cause for complaint and have so informed the agent, I have promised to bring the matter to the attention of the Legation."

Canton informed.

JOHNSON

893.113/1307 : Telegram

The Minister in China (Johnson) to the Acting Secretary of State

PEIPING, July 11, 1931—4 p. m.

[Received July 11—10:53 a. m.]

417. Legation's 406, July 9, 5 p. m. Following from Consulate General, Canton:

"July 10, 3 p. m. Referring to Hong Kong's July 7, 4 p. m., Canton Aviation Bureau substantially confirms shipment of military airships from England and Germany. According to the agreement delivery is to take place in Hong Kong to Cantonese gunboat. British airships were shipped from factory last week and machines arrive

⁷ American federal corporation.

⁸ Multilateral convention and statute on freedom of transit, signed April 20, 1921, League of Nations Treaty Series, vol. vii, p. 11.

within 6 weeks. Bureau states that in [*sic*] obtaining release of airships from country of origin is seller's business regarding which they have no information.

Bureau also confidentially informed me that an order has been placed with American company, probably L. E. Gale Company, for 12 American military airships to be exported as commercial aircraft to Hong Kong where they are to be armed with Browning machine guns and delivered to Canton gunboat. Local authorities anticipate no difficulty in obtaining delivery provided seller is able to obtain export license."

JOHNSON

893.113/1307 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

[Paraphrase]

WASHINGTON, July 18, 1931—5 p. m.

237. Legation's 417, July 11, 4 p. m. Will you instruct the Consulates General at Canton and Hong Kong to report through the Legation by mail or by telegraph important instances of arms, munitions, and airplanes, whether military or commercial, being shipped from the United States or from other foreign countries to the Cantonese authorities; and likewise to report cases of commercial airplanes which have been found in use for military purposes.

CASTLE

893.113/1309 : Telegram

The Consul General at Nanking (Peck) to the Acting Secretary of State

NANKING, July 21, 1931—7 p. m.

[Received July 22—10:05 a. m.]

Information American Minister, Peiping:

41. 1. In conversation with me today Soong, Minister of Finance, stated that he had reliable information that the so-called Government at Canton had purchased eight Lockheed Vega planes for immediate delivery consigned to Canton by way of Hong Kong. He said sellers had furnished Canton authorities blueprints showing how these commercial planes could be easily converted into prohibited planes by mounting machine guns thereon. I confirmed his impression that no restriction is placed on exportation to China of commercial planes. Minister of Finance stated these planes are capable of speed of 200 miles per hour and in view of all the circumstances it is obvious that the Canton authorities desire them for troop protection. Since Canton

authorities are in rebellion against the National Government he asked me to transmit the request of the Chinese Government that exportation of these eight planes be forbidden. He was unable to designate place of export but said order was placed through Meeker E. G. and Company. Planes are manufactured by Lockheed Aircraft Company at Burbank, California. Material, type, market, Lockheed Sirius not Vega.

2. For Department's information. McConnell, Vice President of the United Aircraft Export Company assures me that the British authorities at Hong Kong place no impediment in the way of sales of fighting planes by British merchants to the Chinese authorities at Canton and have even given assurance that military planes consigned to Canton by way of Hong Kong will not be interfered with at Hong Kong.

3. Repeated to the American Minister.

PECK

893.113/1310: Telegram

The Consul General at Nanking (Peck) to the Acting Secretary of State

NANKING, July 22, 1931—3 p. m.
[Received July 22—2:30 p. m.]

Information American Minister, Peiping.

42. My telegram 41, July 21, 7 p. m.

1. On July 21, 10 p. m. I received *aide-mémoire* from the Chinese Foreign Office regarding same planes. Information same as that given me by Soong but request for prohibition of export is based on regulations for the transportation of war materials (see Foreign Office note of February 11, 1930, paragraph No. 2⁹). Referring to last part of my telegram, I have asked acting British Consul General what measures Hong Kong authorities are taking to prevent war materials from reaching Canton and he tells me the British Foreign Office has ruled the British authorities are prohibited under terms of Barcelona Convention from interfering with a cargo passing through Hong Kong under through bill of lading consigned to Canton, but may and should prevent exportation to Canton from Hong Kong of war materials consigned to Hong Kong and resold there. Chinese Foreign Office has been so informed. British Consul General remarked parenthetically that Hong Kong has its own peculiar difficulties and gets into difficulties whatever course it pursues. I am unable to find in this office copy of the convention referred to.

⁹ Not printed.

3. McConnell, Vice President of the United Aircraft Export Corporation tells me he gravely doubts whether Gale and Company sold these planes as alleged. Gale represents both United Aircraft Export and Detroit Aircraft Corporation, holding company of Lockheed Aircraft Company, and recently informed McConnell he would not deal with Canton for this would jeopardize Nanking business. McConnell thinks present deal probably concluded by some other agent of Detroit Aircraft—perhaps Bert Hall.

PECK

893.113/1310 : Telegram

The Acting Secretary of State to the Consul General at Nanking
(Peck)

WASHINGTON, July 27, 1931—4 p. m.

60. Your 41 of July 21, 7 p. m. and 42 of July 22, 3 p. m. Department, on the basis of the information communicated by the Chinese authorities, would regard export, if attempted, of the planes in question as involving export of unassembled war material to an ultimate consignee in China and Department is taking steps with a view to preventing exportation unless planes are accompanied by export licenses duly issued by this Department in conformity with the established requirements. Department does not, however, guarantee success of its efforts.

CASTLE

893.113/1314 : Telegram

*The Ambassador in Great Britain (Dawes) to the Acting Secretary of State*¹⁰

LONDON, July 30, 1931—11 a. m.

[Received July 30—6:24 a. m.]

276. Department's telegram 238, July 27, 4 p. m.¹¹ Foreign Office states orally British Government's policy is that no arms or munitions of war including military aeroplanes can leave Great Britain without Board of Trade export license given only after consulting with Foreign Office. In the case of China, Foreign Office concurrence is only given to shipments destined for and with the known sanction of the Nanking Government. As regards Hong Kong local Government was requested to conform to British Government's policy as above stated. The Hong Kong Government is doing so. Foreign Office states

¹⁰ Quoted to the Minister in China in Department's telegram No. 258, July 31, 6 p. m.

¹¹ Not printed.

further that commercial aeroplanes can be exported to China or anywhere without reference to Board of Trade or Foreign Office, no export license being required.

DAWES

893.113/1329

*Memorandum by the Vice Consul at Nanking (Reynolds) of a Conversation With Major Wu HjeH-shek of the Aviation Bureau at Nanking*¹²

[NANKING,] July 31, 1931.

Major Wu stated that the Aviation Bureau is in receipt of information that the Cantonese have been successful in purchasing several airplanes from Great Britain and Germany, and that repeated attempts have been made by the Cantonese to purchase American-made airplanes which the Cantonese, as well as the National Government, recognize as being superior to any now manufactured in any other country. Wu repeated several times during the conversation that it was the hope of the Aviation Bureau, as well as of the other branches of the National Government, that the United States Government would take all steps possible to prevent the issuance of export licenses for planes consigned to Canton, or to destinations which would make it evident that Canton was to be the ultimate destination. Mr. Reynolds pointed out the difficulty that is involved in determining the intent for which those planes might be desired, for according to Mr. Reynolds' understanding, the Cantonese had attempted to purchase only civil model airplanes. Major Wu stated that although the planes desired by Canton were, technically, civil models, the ease with which the planes can be fitted with machine guns and bomb racks make the intended use of the planes evident beyond doubt.

893.113/1329

*Memorandum by the Consul General at Nanking (Peck) of a Conversation With the Assistant Director of the Department of General Affairs, Chinese Ministry of Foreign Affairs (T. L. Wang)*¹²

[NANKING,] August 1, 1931.

Dr. Wang said that the National Government wondered whether the American authorities could do anything to prevent the shipment of airplanes from Europe to Canton by way of Manila. He empha-

¹² Copy transmitted to the Department by the Consul General at Nanking in his despatch No. D-76, August 7; received August 31.

sized that he was not actually asking that anything be done to intercept these planes, but was merely discussing with Mr. Peck the question whether anything could be done. He said that several Junkers planes were coming to Canton, by way of Manila and it occurred to the Chinese Government that the American Government, if it were so disposed, might invoke the Versailles Treaty,¹⁴ which forbids Germany to export munitions and to manufacture military planes, and on this basis intercept these planes and prevent their reaching Canton.

Mr. Peck observed that, to the best of his recollection, the portion of the Versailles Treaty mentioned by Dr. Wang¹⁵ was among the sections of the Treaty the right to invoke which was reserved by the United States in the Treaty with Germany.¹⁶ However, Mr. Peck said he doubted whether the planes now in question were manufactured in Germany at all. He said that the Junkers planes purchased by the National Government were manufactured in Denmark, while their motors were manufactured in some other country outside of Germany, probably Belgium. The fact that the National Government had likewise purchased Junkers planes might, moreover weaken the force of the appeal which Dr. Wang suggested.

Dr. Wang said that the United States was not a party to the Barcelona Convention, relating to goods in transit, and this Convention, therefore, interposed no obstacle.

Dr. Wang again said that he was not placing any request through Mr. Peck that the American Government do anything in the premises. Such a request might come later, if it appeared that there was something the American Government could do. Mr. Peck said he might refer the matter to the Department of State, for its information.

893.113/1318 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, August 5, 1931—5 p. m.

260. Your August 1, 10 a. m.¹⁷

1. Copy of letter from Douglas Aircraft Company to War Department,¹⁷ referred to in memorandum of conversation of June 18,¹⁷ as subsequently received by this Department, requested that War Department supply 20 Browning machine guns and 20 Lewis machine guns and other subsidiary equipment. No request was made for supply by War Department of bomb racks. Export license issued by this De-

¹⁴ Signed June 28, 1919; see especially art. 170, *Treaties, Conventions, etc.*, 1910-1923, vol. III, pp. 3329, 3402.

¹⁵ I. e., part V.

¹⁶ See art. II of treaty signed August 25, 1921, *Foreign Relations*, 1921, vol. II, p. 29.

¹⁷ Not printed.

partment covered 20 Douglas military observation airplanes, each airplane to be equipped with 2 aircraft guns and 2 bomb racks. This equipment coincides as to quantity with that mentioned in the Minister's telegram of May 25, 3 p. m. from Nanking.¹⁸

2. Department is informed by War and Commerce Departments that Vought Corsair planes and Douglas planes, with exception of Douglas amphibian planes, are primarily for military purposes. The Department is therefore notifying the Treasury Department that in the opinion of this Department exportation to China of Vought Corsair planes and of Douglas planes, except amphibian planes, should be permitted only in case application has been made in the regular manner to this Department for license to export and license has been issued. Also, that in case of a shipment of such planes consigned to Macao but with the ultimate destination a point in China,¹⁹ application for a license to export should be made; that under present political conditions in China, this Department views the exportation from the United States to Hong Kong and to Macao of arms and munitions of war, including military aircraft, as destined presumptively for China; and that unless that presumption can be overcome by the exporter in the United States, any such exportation should be accompanied by an export license duly issued by this Department.

3. Please inform Nanking, Canton and Hong Kong.

CASTLE

893.113/1333

The Minister in China (Johnson) to the Acting Secretary of State

No. 1126

PEIPING, August 19, 1931.

[Received September 14.]

SIR: Referring to the Department's telegram No. 60, July 27, 4 p. m., to the Consulate General at Nanking with regard to the export of airplanes to the Canton authorities, I have the honor to enclose a copy of the Legation's note No. 333 of August 4, 1931, to the Minister for Foreign Affairs,¹⁸ informing Dr. Wang that the United States Government is taking steps with a view to preventing the shipment of eight Lockheed Vega planes to Canton. There is likewise enclosed a copy, in translation, of Foreign Office note No. L-334 of August 14, 1931,¹⁸ expressing gratitude for any assistance which may be rendered the National Government in this matter.

Respectfully yours,

NELSON TRUSLER JOHNSON

¹⁸ Not printed.

¹⁹ The Treasury Department, in reply on August 12, 1931, denied any shipment to Macao (893.113/1324).

893.113/1341 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, October 23, 1931—5 p. m.

[Received October 23—2:03 p. m.]

815. Department's 258, July 31, 6 p. m.²¹ The following has been received from the Consul General at Canton:

"October 22, noon. Referring to the Legation's telegrams of July 20, 2 p. m. and August 3, 3 p. m., I have been informed by Gale's Hong Kong representative that Far East Aviation Company had delivered second single place Armstrong Whitford pursuit plane to Canton Aviation Bureau this morning. Although this ship was flown to Canton from Hong Kong with machine-gun mounts but unarmed, buyers claim that the plane was sold armed. Order for three more British manufactured ships of the same kind is reported to have been signed and the Bureau is said to be planning additional purchase of British ships since American military planes are not obtainable. Gale's representative objected that unless British competitors were prevented from selling military aircraft to Canton, American aircraft trade would be adversely affected."

For the Minister:

ENGERT

893.113/1341

The Secretary of State to the Ambassador in Great Britain (Dawes)

No. 990

WASHINGTON, November 13, 1931.

SIR: Referring to the Department's telegraphic instruction No. 238 of July 27, 1931, 4 p. m.,²² and to your telegraphic reply No. 276 of July 30, 11 a. m., in regard to British policy and procedure respecting shipments via or from Hong Kong to the Cantonese revolutionary government of arms and munitions of war and of airplanes, there is enclosed a copy of telegram No. 815 of October 23, 5 p. m., from Peiping, quoting a telegram from the American Consul General at Canton in regard to the reported delivery to the Canton Aviation Bureau of military planes of British manufacture.

In this connection it is requested that you discreetly and informally bring to the attention of the Foreign Office this reported delivery to the Cantonese authorities of British military planes. The Department would be interested in being informed of any comment that the Foreign Office may make on this subject.

Very truly yours,

For the Secretary of State:

HARVEY H. BUNDY

²¹ See footnote 10, p. 1022.

²² Not printed.

893.113/1347 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, December 12, 1931—noon.

339. Reference Department's mail instruction 990, November 13, 1931.

Department now has from Department of Commerce data submitted by that Department's representative at Hong Kong confirming and adding detail to the telegraphic report by American Consul General at Canton, copy of which was enclosed in the instruction under reference.

Department requests early action and report by Embassy.

STIMSON

893.113/1346 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, December 14, 1931—1 p. m.

[Received December 14—9:10 a. m.]

461. Department's telegram 339, December 12, noon. Matter was taken up with Foreign Office November 25th and inquiry has since been made and today in reply to further inquiry the Embassy was informed that the Foreign Office is not yet able to make any comment.

DAWES

893.113/1356

The Minister in China (Johnson) to the Secretary of State

No. 1340

PEIPING, December 23, 1931.

[Received January 18, 1932.]

SIR: Referring to despatch No. 7 of December 9, 1931, to this Legation from the Consul at Hongkong,²³ copies of which were forwarded to the Department by Mr. Putnam, concerning the sale of military supplies to the Canton Government, I have the honor to suggest that the difficulties encountered by American firms in the sale of aeroplanes in South China, as pointed out in the despatch under reference, will probably disappear with the present reorganization of the National Government.

Should a political reconciliation not be effected between the various Chinese factions it would appear unjust for us to handicap our merchants at Canton, as has apparently been the case in the past, in

²³ Not printed.

view of the fact that the British Government is evidently according the same treatment to the Government at Canton as to that at Nanking in the matter of the sale of munitions of war.

Respectfully yours,

NELSON TRUSLER JOHNSON

PROTECTION OF TITLE DEEDS TO REAL PROPERTY OF AMERICANS
IN CHINA¹

893.5211/32

The Minister in China (Johnson) to the Secretary of State

No. 814

PEIPING, February 18, 1931.

[Received March 26.]

SIR: I have the honor to enclose, for the consideration of the Department, copy of despatch No. 6776 of January 28, 1931, from the American Consul General at Shanghai to the Legation² concerning the protection, in the event of the relinquishment of extraterritorial jurisdiction,³ of the rights of American citizens in respect to land tenure in China.

The Department's attention is particularly invited to the penultimate paragraph of Consul General Jenkins' letter which states in part:

"... the High Court of Kiangsu handed down a decision on December 30, 1930, confirming the judgment of the Shanghai Special District Court to the effect that foreigners are not authorized under the treaties to hold land outside of the treaty ports—in this instance the Shanghai International Settlement. This decision seems to indicate that the Chinese authorities are tending to exclude Americans and other foreigners (except possibly missionaries) from holding perpetual leases on land outside the definitely prescribed limits of treaty ports and foreign settlement areas."

Such court decisions cannot but lead to the fear that there will be endless complications in the future unless, in any agreement regarding the relinquishment of extraterritorial jurisdiction, definite provision is made to safeguard the existing property rights of bona fide American non-missionary lessees who hold duly stamped leases-in-perpetuity for property located in treaty ports which have never been clearly delimited by the Chinese authorities, or for property in treaty ports, such as Shanghai, the limits of which have been at least tacitly recognized by the Chinese authorities, who, liberally interpreting treaty provisions, have in times past stamped deeds for property

¹ Continued from *Foreign Relations*, 1930, vol. II, pp. 567-575.

² Not printed.

³ For negotiations, see pp. 716 ff.

leased in perpetuity by American merchants and other non-missionary lessees in areas adjacent to but technically outside of the limits of the treaty ports in question.

Respectfully yours,

NELSON TRUSLER JOHNSON

893.5211/29

The Secretary of State to the Minister in China (Johnson)

No. 407

WASHINGTON, February 26, 1931.

SIR: The Department has received your despatch No. 729 of January 14, 1931, and its enclosures,⁴ on the subject of consular procedure in China in regard to the issuance of title deeds in that country. The Department notes the statement contained in your despatch that the issuance of consular title deeds in the name of American citizens where the property is actually owned by Chinese is a practice almost entirely confined to Shanghai.

Your despatch No. 729 also referred to a demand recently made by the Land Bureau of the Municipality of Greater Shanghai that foreign renters of land situated outside the Settlement areas furnish a statement through the consular office concerned with regard to the actual ownership of the land and with regard to the owner's intentions in respect to its development. In that connection you enclosed a copy of your communication of December 20, 1930, to the Consul General at Shanghai, in which you instructed that he satisfy himself in each instance of the existence of a bona fide American interest. You further instructed the Consul General that the demand of the Chinese Land Bureau for a statement from foreign lessees of land situated outside the Settlement areas, in respect to the purpose for which the land had been acquired and the developments to be made thereon, could not be objected to when the land is located in the interior, since by treaty the ownership of such land is limited to American missionary societies to be used by them for missionary purposes. With regard to land situated in the port of Shanghai, whether within or without the Settlement areas, you instructed the Consul General that you did not feel that the Chinese authorities could properly insist upon a statement being given other than a general assurance that the land is being acquired for purposes specified in the treaties. In your communication to the Consul General you also referred to the possibility that the Chinese authorities might soon extend the requirement of proof of foreign ownership to land located inside the Settlement areas. You observed that the present system, whereby title

⁴ Not printed.

deeds are issued to non-beneficial owners, is both unsound and unsatisfactory and one which eventually should be abolished. You therefore suggested to the Consul General that he consult his interested colleagues with a view to the discontinuance of that practice of land holding in the Settlement areas, at least with regard to new purchases of land. You added that this question was being referred to the Department for instructions.

The Department has carefully considered your despatch and its enclosures and perceives no reason why a general instruction on this subject, as foreshadowed in its instruction No. 1350 of September 16, 1929,⁶ should not now be issued. You are accordingly requested to instruct the American consular officers in China, except the Consul General at Shanghai, to take no further steps looking toward the issuance of a title deed to property in China in the name of an American citizen unless satisfied that there is a substantial American interest in the property.

With regard to the procedure at Shanghai, you are informed that the Department approves your communication of December 20, 1930, to the Consul General at that port. With respect to the extension of the principle stated in the preceding paragraph to land situated in the International Settlement and the French Concession at Shanghai, the Department considers that it would be desirable for a uniform practice to be established by all the powers concerned. Before issuing any further instructions on this point, the Department will therefore await a report from the Legation setting forth the result of the Consul General's negotiations with his interested colleagues on this subject and the Legation's recommendations in the premises.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

893.5211/34 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, March 27, 1931—5 p. m.
[Received March 27—9:25 a. m.]

172. Reference Senior Minister's circular No. 20 of March 20 [4], 1930.⁶ Following has been received from Hankow:

"March 26, 3 p. m. Vernacular newspapers have published a proclamation issued by the Bureau of Finance of the Hankow Municipal Government requiring the submission of white deeds⁷ for stamp-

⁶ Not printed.

⁷ Contracts between individual parties.

ing^s before April 1, failing which a fine is to be imposed. I have received no official notice of this requirement. Owners of white deeds hesitate to submit them for stamping and in view of Legation's circular instructions No. 393 of December 13, 1929, and No. 5 of February 14, 1930,^a I respectfully request telegraphic instructions as to what advice should be given holders of white deeds that have not been stamped of which there are a considerable number recorded in this consular jurisdiction."

Department's telegraphic instructions are requested as soon as possible.

For the Minister:
PERKINS

893.5211/34 : Telegram

The Acting Secretary of State to the Minister in China (Johnson)

WASHINGTON, April 6, 1931—1 p. m.

129. Your 172 of March 27, 5 p. m.

1. The Department notes that the proclamation referred to is apparently similar to a proclamation communicated in Hankow's despatch to the Legation No. 631 of February 7, 1929.¹⁰

2. The Department suggests that Hankow, in replying to inquiries that may be made by American holders of white deeds, might inform such holders: (a) that the general question of the validity of foreign land titles and of the payment of fees on land transactions is among the questions which are being given consideration in connection with the negotiations on extraterritoriality; (b) that while the Department is of course endeavoring to insure the recognition by the Chinese authorities of all legal and equitable property rights of American citizens in China, no assurance can be given as to the result of its negotiations on this subject and accordingly American holders of white deeds must rely on their own judgment in determining whether to apply for red deeds.

3. In the case of future land transactions, not involving the question of the fees on previous land transactions, the Department considers that American citizens seeking to acquire title to land would be well advised to obtain red deeds in all cases where the procedure is based on reasonable Chinese legislation.

4. The Department would be glad to have your views, together with an indication of the attitude of your interested colleagues.

CARR

^a When so approved, the deeds become "red deeds."

^s Neither printed.

¹⁰ Not printed.

893 52/257

The Secretary of State to the Minister in China (Johnson)

No. 507

WASHINGTON, June 8, 1931.

SIR: The Department has received the Legation's despatch No. 899, March 27, 1931,¹¹ on the subject of regulations of the Mokanshan Administrative Bureau (Chinese) prohibiting the purchase by foreigners of land at Mokanshan, a summer resort in Chekiang Province, and providing that foreigners who have already acquired property at that place may transfer their property to Chinese purchasers only.

The Department has noted the Legation's statement that the Chinese previously granted to foreigners, as a courtesy, the right to purchase land at this interior point, and the Legation's opinion that the more recent action of the Chinese in withdrawing this privilege constitutes no valid ground for protest so long as the existing titles of American citizens to land at Mokanshan are not impaired by the regulations promulgated by the Chinese authorities.

Having in mind the Legation's statement that the privilege of purchasing perpetual leases of land at Mokanshan was granted originally as a courtesy by the Chinese authorities to foreigners, it would appear to the Department that no sound ground exists for protest against the discontinuance of that privilege in so far as the purchase of new perpetual leases by Americans from Chinese is concerned. With respect to leases already acquired by Americans, the matter has a somewhat different aspect.

It may be presumed that American owners of perpetual leases at Mokanshan have in some instances expended material sums of money upon the land covered thereby in construction and improvements in reliance upon the then existing right to dispose of such leases in an unrestricted market. The effect of the regulations under discussion is to restrict that market.

While the Department does not desire that any protest be made at this time against this effect of the regulations, it does desire that the Legation report any instance coming to its attention in which existing American property rights have been impaired as a result of the administration of the regulations.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

¹¹ Not printed.

893.5211/42

The Minister in China (Johnson) to the Secretary of State

No. 1248

PEIPING, November 5, 1931.

[Received December 7.]

SIR: I have the honor to refer to the final paragraph of the Department's instruction No. 407, of February 26, 1931, in regard to the issuance of consular title deeds at Shanghai. In accordance with that instruction, the American Consul General at Shanghai was instructed to report the result of his negotiations with his interested colleagues in reference to the abolition of the present system under which title deeds are issued to non-beneficial owners of land located within the International Settlement and the French Concession at Shanghai. The Legation is now in receipt of Consul General Cunningham's despatch No. 7041, of October 23, 1931, a copy of which is enclosed,¹² reporting that, after consultation with his colleagues, he finds that they are not disposed at the present time to effect any change in the procedure now obtaining in respect of the issuance of title deeds of the nature described. He adds that his colleagues "feel that the matter is closely concerned with the credit and finance situation in Shanghai and believe that no change should be made for the time being."

As pointed out by the Department in its instruction under reference, it is desirable that a uniform practice be established by all the powers concerned. In view, however, of the general political situation and of the present attitude of the Shanghai consular representatives of the other powers in respect of this matter, the Legation is of the opinion that the American Consul General at Shanghai should await a more favorable opportunity to seek to bring about the desired change in existing consular land office practice in regard to the issuance of title deeds to non-beneficial owners of land at Shanghai.

Respectfully yours,

For the Minister:

C. VAN H. ENGERT

First Secretary of Legation

¹² Not printed.

EFFORTS FOR THE CONSIDERATION OF AMERICAN CLAIMS
OUTSTANDING AGAINST CHINA¹

893.51 Contractual Obligations/18a: Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, January 3, 1931—6 p. m.

3. 1. From a study of the Minister's despatch of November 18² and your telegram No. 997, November 21, 11 a. m.,³ it appears to the Department that it is the desire of the Chinese Government, before entering into the discussion of the amounts to be applied to individual accounts, to obtain the consent of the creditor nations to an agreed-upon schedule of payments in settlement of China's "duly contracted obligations in arrears", the payments to be made exclusively from the customs, railway and salt revenues, to terminate in 30 years, and to be applied to all of China's outstanding contractual obligations.

2. The Department is at present engaged in classifying and listing all American claims against China of which it has record, to supplement the survey of outstanding claims transmitted with its instruction No. 1467 of February 3, 1930.⁴ It is preparing also a list of obligations of a contractual nature, as requested in the Legation's telegram under reference. This work may take several weeks. Department would hesitate to make an estimate, for presentation to the Chinese Government, of the total amount of contractual obligations of record in the Department due American creditors until the latter have been given an opportunity to submit statements of the present amounts of their respective claims. Department desires, in this relation, to learn whether the Minister believes that it would be premature under present circumstances for the Department to request such statements from American organizations and individuals interested. Department has given in confidence to J. P. Morgan and Company and to the Continental Illinois Bank and Trust Company the text of the Chinese Government's memorandum but has not invited comments thereon.

3. Department does not see how it could give its consent to a proposal that annual payments be limited to sums to be derived from limited sources of revenue unless it were first given satisfactory evidence that the Chinese Government intended to give under that plan just and non-discriminatory consideration to the aggregate amount of the obligations owed by it to American creditors.

4. Therefore, if the Minister believes that a communication should be addressed to the Chinese Government in reference to the proposal

¹ Continued from *Foreign Relations*, 1930, vol. II, pp. 580-608.

² Not printed.

³ *Foreign Relations*, 1930, vol. II, p. 607.

⁴ *Ibid.*, p. 581.

made to him and certain of his colleagues on November 15,⁵ the Department desires that he inform the Chinese Government that the American Government desires to facilitate in every appropriate and feasible manner the adjustment of the foreign obligations of the Chinese Government but that the American Government would not be in a position to give its assent to the present tentative plan until it had been informed more fully in regard to the treatment which the Chinese Government expects thereunder to accord to the total outstanding obligations owed to American citizens and organizations.

5. The Minister's comments and suggestions would be welcomed, together with an indication of the attitude of other interested governments.

6. The Department desires also to have the Minister's views as to whether the Chinese Government would be prepared, in addition to its proposal regarding contractual obligations, to propose an adjustment of pending American claims of all sorts, perhaps through the medium of a Sino-American claims commission.

STIMSON

893.51 Contractual Obligations/19 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, January 9, 1931—6 p. m.
[Received January 9—10:40 a. m.]

15. Your No. 3, January 3, 6 p. m.

1. My view is the same as that expressed in paragraph 1 of the Department's telegram although no details in regard to real plan of Chinese Minister of Finance are available as yet.

2. It is my understanding that Chinese Ministry of Finance desires that we present as complete a list of outstanding obligations of a contractual nature as possible with statements of sums due. Ministry of Finance has apparently worked out such statements for its own account but asks that we present our case first.

3. I have been able to learn little in regard to the attitude of other Governments on this matter. Those with whom I have talked have indicated that they sent home the memorandum of the Chinese Government and that in each case the Governments are preparing statements for submission to the Chinese Government with a view to taking the next step which will be to discover the actual nature of the proposal which the Chinese Government has in mind for the liquidation of un-

⁵ See telegram No. 997, November 21, 1930, from the Minister in China, *ibid.*, p. 607.

secured and inadequately secured contractual obligations. I shall make inquiries and communicate such information as I am able to obtain later.

4. I consider that it would do no harm for me to address a communication along the lines indicated in paragraph 4 of the Department's telegram to Dr. Wang Chung-hui, the President of the Commission, sending a copy to the Minister for Foreign Affairs and I shall do this now.

5. I am not in a position at this moment to express an opinion on the matters included in paragraph 6 of the Department's telegram but I believe that Chinese Government would give consideration to this proposal and I shall take it up with the Foreign Office on my next visit to Nanking which I expect to make about the first week in February.

JOHNSON

893.51 Contractual Obligations/21 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, January 12, 1931--3 p. m.

[Received January 12--8:55 a. m.]

17. Department's 9, January 10, 5 p. m.^a I consider that it would not be premature to request statements from American creditors. It is my understanding that until statements are prepared I can go no further with the Minister of Finance on this matter.

JOHNSON

893.51 Contractual Obligations/22 : Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, January 16, 1931--5 p. m.

[Received January 16--9:10 a. m.]

27. Department's 3, January 3, 6 p. m. I have transmitted through the Foreign Office a letter addressed to Dr. Wang Chung-hui, Chairman of the Commission for the Reorganization of China's Domestic and Foreign Loans, stating the Department's attitude as outlined in paragraph 4 of the above-cited telegram.

JOHNSON

^a Not printed.

493.11/1553 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, March 7, 1931—9 p. m.

[Received March 8—1:30 p. m.]

Department's written instruction number 1467, February 3, 1930.⁷ I discussed informally with Minister for Foreign Affairs this morning possibility of negotiation of an agreement for the Claims Commission. Doctor Wang's first reaction was that Chinese Government would object on the ground that such a commission would interfere with work of the courts but admitted that question appeared novel to him and that he would like to study it.

I am therefore giving him for study without commitment on either side copy of draft of protocol⁸ enclosed with the Department's instruction.

JOHNSON

493.11 Changsha/17

Memorandum by the Minister in China (Johnson)⁹

NANKING, March 7, 1931.

I asked the Minister for Foreign Affairs whether anything had been done about the claims arising from damage to property in Changsha last summer.¹⁰ He expressed the view which he had given before, namely, that the Government was not liable for damage done by rebels.

I stated that in this case we felt that the Government had failed to protect foreign property as the Governor of Hunan had withdrawn his forces from the city without warning and had left Americans to the mercy of the invading forces which had systematically undertaken to destroy and loot American property.

The Minister for Foreign Affairs stated that the Government had gone into the question of responsibility of the Governor of Hunan in this matter at the time when his name was before the Executive Council for possible cashiering, that General Ho Chien and the military had satisfied the Government that a withdrawal of Government forces from the city was the only move that the military could undertake at the time in order to protect their forces and enable them to collect and retake the city.

⁷ *Foreign Relations*, 1930, vol. II, p. 581.⁸ *Ibid.*, p. 583.⁹ Copy transmitted to the Department by the Minister in his despatch No. 881, March 18; received April 25.¹⁰ For previous instruction, see Department's telegram No. 424, December 9, 1930, 5 p. m., *Foreign Relations*, 1930, vol. II, p. 220.

I stated that the American Government was receiving claims from American citizens and that this matter would have to be discussed and settled sooner or later.¹¹

NELSON TRUSLER JOHNSON

493 11/1556 : Telegram

The Minister in China (Johnson) to the Secretary of State

NANKING, April 13, 1931—3 p. m.

[Received April 13—8:35 a. m.]

My April [*March*] 7, 9 p. m. Minister for Foreign Affairs informed me today that he had discussed possibility of negotiation of an agreement for a claims commission with Wang Chung-hui and that reaction to such an agreement was unfavorable. He said that response would be negative if matter were taken up officially.

JOHNSON

493.11/1556 : Telegram

The Secretary of State to the Minister in China (Johnson)

WASHINGTON, May 7, 1931—2 p. m.

173. Referring to telegram of April 13, 3 p. m., from the Minister at Nanking in regard to proposed claims commission.

1. Department suggests that you bring following to attention of appropriate Chinese authorities:

(a) Adoption of draft protocol enclosed with Department's 1467 of February 3, 1930,¹² and setting up of Commission in accordance therewith would not, beyond the expense of the Commission, impose any financial obligation upon the Chinese Government.

(b) The work of the proposed Commission would simply be to run the claims through the mill and to determine what is the net obligation of China in dollars and cents. The question of settlement of the claims would be left for later discussion.

(c) Until the claims can be passed on by a Commission the Chinese Government would appear to be faced with a much larger indefinite obligation than would be shown to exist when the Commission had completed its work.

(d) The Department would be prepared to consider such changes in the terms of the proposed protocol as would meet the wishes of the Chinese Government. Specifically, the Department authorizes you to suggest to the Chinese Government that there be eliminated from the proposed protocol that class of claims comprehended by paragraph 3 of Article I of the protocol, provided that we have sufficient assurance

¹¹ The Chinese Minister for Foreign Affairs subsequently declined to reconsider the matter.

¹² *Foreign Relations*, 1930, vol. II, p. 583.

that the present program of the Chinese Government with regard to the liquidation of this class of indebtedness will be adequate to take care of such claims and that it will be carried through. You are further authorized to indicate to the Chinese Government a willingness, should it prefer, to have the claims passed on by a mixed Commission, composed of one American, one Chinese, and a third and presiding member of neutral nationality, and to include within the jurisdiction of the Commission claims of Chinese nationals against the United States.

(c) The present trend of international thought is in the direction of settling justiciable international disputes by arbitration. During the past few years the United States Government has either completed or initiated arbitrations for the settlement of claims with the following countries: Austria-Hungary, Cuba, Egypt, Germany, Guatemala, Mexico, Norway, Panama and Sweden. The claims included in these completed and pending arbitrations number approximately 27,000 and the total amounts claimed run into hundreds of millions of dollars. Usually the awards amount to a relatively small percentage of the sums claimed. In most of the cases of arbitration just mentioned the Commissions were composed as above suggested.

(f) The work of the proposed Commission would be devoted to bringing about that condition of facts which the Chinese Government is now understood to desire, namely, the clarification of its position with respect to all foreign obligations.

STIMSON

493 11/1566: Telegram

The Minister in China (Johnson) to the Secretary of State

PEIPING, May 23, 1931—2 p. m.

[Received May 23—8:50 a. m.]

294. [From Perkins.] Department's 173, May 7, 2 p. m. Following from the Minister at Nanking:

"I saw Minister for Foreign Affairs yesterday and conversed with him along the lines of the Department's instructions under reference. Wang stated that their objections to original draft were three:

(a) The proposal was too expensive. If they reached such an agreement with us other countries would ask some definite arrangements.

(b) The proposal was one-sided and for an indefinite period.

(c) As long as the unequal treaties continued it would be difficult to find members of such a commission who would not be prejudiced by that fact.

Because of (b) and (c) it would be difficult to defend such an arrangement before the people. I said that as regard[s] (a) I had no answer but that I thought it would be worth the expense to get the situation in regard to claims cleared up; that as regards (b) I was authorized to say that we would consider subjecting claims of

Chinese nationals against the Government of the United States to the examination of the same commission and I took the liberty of suggesting that as regards the terms of such a convention I thought it might be preferable to limit the convention to claims now outstanding and to such claims as might arise during the life of the convention with a provision that the commission might be continued at the end of the term of the convention if the two countries were satisfied with its working. I also stated that we would consider the making of the commission into a mixed one if the Chinese preferred. As regards (c) I said that I thought it reasonably sure that we could find a nationally known man of nonextraterritorial status to preside although I was not sure of the Department's attitude on this. Dr. Wang said that this placed the matter in a new light and asked me to draft an agreement along these lines for his consideration. Will the Department give me an outline to follow which I can present to him?"

For the Minister:
PERKINS

493.11/1578

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Chinese Chargé (Yung Kwai)

[WASHINGTON,] July 16, 1931.

Mr. Yung Kwai having called at Mr. Hornbeck's request, Mr. Hornbeck, after exchange of inquiries and comments with regard to the situation in China and the weather in Washington, adverted to the subject of the inquiry which Mr. Yung Kwai had made recently, at the instance of the Nanking Government, with regard to postponement of payments on intergovernmental debts¹³—with reference particularly to certain Boxer Indemnity payments. Mr. Hornbeck read to Mr. Yung Kwai an informal statement—of which a copy is attached hereto.¹⁴ Mr. Yung Kwai said that this was what he had expected would be the reply; he gave every appearance of being not only satisfied but gratified; and he asked whether he might have a copy of the paper which had been read to him. Mr. Hornbeck said that he would gladly give him a copy and that it should be regarded as an informal, oral reply to the informal, oral inquiry which Mr. Yung Kwai had made. Mr. Yung Kwai said that he quite understood that the whole matter was informal.

The conversation then turned again to the Chinese political situation and soon terminated.

S[TANLEY] K. H[ORNBECK]

¹³ For correspondence on this subject, see vol. I, pp. 1 ff.

¹⁴ *Infra.*

493.11/1578

*The Department of State to the Chinese Legation*¹⁵

In reference to the question whether the proposal made by President Hoover for postponement for one year of payments on inter-governmental debts is applicable to debts owed by the Chinese Government to foreign governments,—

The proposal was prompted primarily by the view that the strain of payments on debt and reparations obligations which arose out of the World War had become during the present period of depression so burdensome that continuance of such payments was jeopardizing both the political and economic situation in Europe, particularly in Germany—which country seemed to be approaching the limit of its revenue raising capacity. The immediate object of the proposal was to afford relief from obligations which have arisen out of the War. It was not within the calculation or intent of the American Government that the proposal should extend beyond that realm of obligations, and the discussions which were held between representatives of the American Government and those of the other principal creditor governments, which discussions led to the acceptance in principle of the American proposal, were limited to debt and reparations payments of the character indicated above.

893.51/5550 : Telegram*The Minister in China (Johnson) to the Acting Secretary of State*

PEIPING, July 30, 1931--11 a. m.

[Received July 30--3 a. m.]

472. Reuter reports from Shanghai 29th:

"T. V. Soong, Minister of Finance, published warning this afternoon that bonds secured on customs revenue issued by Canton rebels will not be recognized in any way by the Government as having claim on national funds. Statement points out that Canton rebels in proposing to issue premium bonds secured on the additional customs duties are not only infringing upon integrity of the customs service but are usurping recognized rights of bondholders of foreign and national obligations. It is emphasized that these obligations are secured on the customs revenue as a whole and not on any specific part of it."

JOHNSON

¹⁵ Copy read and handed to the Chinese Charge on July 16, 1931, by the Chief of the Division of Far Eastern Affairs.

493.11/1566

The Secretary of State to the Minister in China (Johnson)

No. 643

WASHINGTON, December 10, 1931.

SIR: The Department refers to the Legation's telegram No. 294 of May 23, 1931, and notes with gratification that the Legation's conversations with the Chinese authorities in regard to the concluding of an arrangement for the adjudication of claims of the nationals of either Government against the other seem likely to produce definite results.

As a basis for further discussions of this matter with the Chinese authorities, there is enclosed for the use of the Legation a draft of a proposed convention between the two Governments. While it is hoped that the Chinese authorities may be willing to accept this draft in its entirety, the Department will be glad to give attentive consideration to any amendments which such authorities may have to offer.

With reference to the three points mentioned in your cable No. 294, you may, in presenting this draft convention for consideration, make the following observations:

(a) The Commission should not prove unduly expensive. The Convention makes no provision for the payment of the claims adjudicated and consequently does not directly obligate the Chinese Government to any further immediate expenditures than those necessary to support the commission. It is believed that all claims could be adjudicated within the two year period provided by the Convention. If other countries ask like treatment they may be expected to accept conventions with similar provisions. The work of the commission in reducing the present outstanding claims against the Chinese Government to a definite amount would seem, in any event, to be an appropriate step in the direction of a sound financial re-organization of the Government and consequently of an improved national credit.

(b) These objections are entirely overcome by the present draft of convention.

(c) This Government believes there are a considerable number of eminent statesmen of non-extraterritorial countries any one of whom China could agree to accept as Presiding Commissioner with absolute confidence that its interests would be fully protected in accordance with the terms and intent of the Convention. This Government is willing to agree in advance that the Presiding Commissioner shall be of non-extraterritorial nationality.

Very truly yours,

HENRY L. STIMSON

[Enclosure]

*Draft of Proposed Convention Between the United States and China
for the Examination and Adjudication of Claims of Nationals of
Each Country Against the Other**

The United States of America and the Republic of China desiring to settle and adjust amicably all unsettled claims of nationals of each country against the Government of the other have, with that object in view, decided to enter into this Convention and have, therefore, nominated as their Plenipotentiaries for that purpose:

The President of the United States of America,

The President of the National Government of the Republic of China,

Who, having communicated their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I

The Commission established under the provisions of this Convention shall pass upon all claims against China of nationals of the United States, whether individuals, partnerships, companies, associations, societies, or corporations, resulting from acts or omissions of the Chinese Government or of agents, officials, or others acting for the Chinese Government, and all claims against the United States of nationals of China, of similar classes and originating under similar circumstances, except that with respect to contract claims against the Government of China this classification shall not include pecuniary obligations of the Chinese Government in respect of claims on which the Chinese Government shall have adopted a definitive adjustment program acceptable to the United States.

ARTICLE II

The Commission shall determine, in accordance with the principles of international law, justice and equity, whether awards shall be made on account of the claims asserted and in cases in which such awards are made, it shall determine the amounts thereof including the rate of interest to be allowed on any such adjudicated claim and the time from which the interest shall begin to run.

ARTICLE III

Such Commission shall be constituted as follows: one member shall be appointed by the President of the United States; one member shall be appointed by the President of the Chinese Republic; the third

* The above title is for purposes of reference during negotiations and should be omitted when instrument is signed. [Footnote in the original.]

member, who shall preside over the Commission, shall be selected by mutual agreement between the two Governments. If the two Governments shall not agree within six months from the exchange of ratifications of this convention in naming the third Commissioner, he shall be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague described in Article XLIX of the Convention for the pacific settlement of international disputes concluded at The Hague on October 18, 1907.¹⁷ In case of the death, absence or incapacity of any member of the Commission, or in the event of his omitting or ceasing to act as such, the same procedure shall be followed for filling the vacancy as was followed in appointing him.

Each member of the Commission, before entering upon his duties, shall make and subscribe a solemn declaration stating that he will carefully and impartially examine and decide according to the best of his judgment and in accordance with the principles of international law, justice and equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the Commission.

ARTICLE IV

The Commission shall hold a session in China, at a place selected by it, within six months after all members of the Commission have been designated unless, by consent of the two Governments, the Commission shall extend such time until a later date, which date, however, shall not be later than twelve months after all members of the Commission shall have been designated. The Commission may, with the consent of the two Governments, fix the time and place of subsequent sessions.

ARTICLE V

The Commission shall not have jurisdiction to hear and decide any claims notice of which shall not have been filed with the respective Governments within one year from the date of the first session of the Commission.

ARTICLE VI

The pleadings to be exchanged in preparing claims for the consideration of the Commission shall be as follows:

First. A Memorial containing a statement of the facts and evidence upon which the claim is based, a statement of the general principles of international law, justice and equity upon which claimant relies and appropriate citations of authorities to support such principles.

¹⁷ *Foreign Relations*, 1907, pt. 2, pp. 1181, 1191.

Second. The Reply of the respondent Government containing the evidence upon which the defense of the case is made, a statement of the principles relied upon in defense of the case and appropriate citations of authorities supporting such principles. Such Replies shall be filed with the Commission within a period of sixty days following the receipt by the respondent Government of claimant's Memorial unless such period shall be modified in individual cases by order of the Commission.

Third. Legal Briefs to be filed concurrently by both parties within a period of sixty days next after the date of the receipt by the claimant of the Reply of the respondent Government, unless such period shall be modified in particular cases by order of the Commission.

With the Briefs of claimants may be submitted any evidence deemed necessary in response to new issues raised by the respondent Government in its Reply.

The Commission shall formulate rules for the conduct of the trial of the cases after the completion of the written pleadings.

ARTICLE VII

The Commission shall cause to be kept an accurate record of the questions and cases submitted for its decision as well as complete and accurate minutes of all its proceedings. To this end each of the Governments may appoint a secretary, and these secretaries shall act together as joint secretaries and shall be subject to the direction of the Commission.

ARTICLE VIII

Claims may be presented to the Commission by the Agents of the respective Governments or, whenever the demandant Governments shall so indicate to the Commission and to the respondent Government, by the claimants themselves.

The two Governments, respectively, may designate such agents and counsel as they may desire to represent them in the conduct of the written and oral proceedings.

The Commission shall receive and consider the written memorial and briefs presented by or on behalf of the respective parties in support of or in answer to any claims presented.

The decisions of the Commission shall be accepted as final and binding upon the two Governments. The decision of a majority of the members of the Commission shall be accepted as the decision of the Commission.

The proceedings shall be conducted and recorded in the English language.

ARTICLE IX

The High Contracting Parties, being desirous of effecting an equitable settlement of the claims of their respective nationals thereby affording them just and adequate compensation for their losses or damages, agree that no claim shall be disallowed or rejected by the Commission by the application of the general principle of international law that the legal remedies afforded by the respondent Government must be exhausted as a condition precedent to the validity or allowance of such claim.

ARTICLE X

The assessment of damages by the Commission shall be made in United States currency and, where the damages have been calculated by the claimant in some other currency, the Commission shall, in making its award, convert the amount of the damages into United States currency at the average rate of exchange prevailing on the day or days on which the loss or damage occurred.

ARTICLE XI

The Commission shall be bound to hear, examine and decide, within two years from the date of its first meeting, all the claims filed, except however that this time may be extended by the two Governments by exchange of notes to that effect. The Commission shall be bound to decide any claim heard and examined, and to record its decision, within the six months following the conclusion of the hearing of such claim.

ARTICLE XII

Each Government shall pay its own expenses, including the compensation of officials and employees appointed by it. All other expenses which by their nature are a charge on the two Governments, including the compensation of the neutral Commissioner and such employees as he may require to assist him in the performance of his duties, shall be borne in equal proportions by the two Governments.

ARTICLE XIII

This Convention shall be ratified by the respective Contracting Parties and shall come into force on the date of the exchange of ratifications.

IN FAITH WHEREOF, the above named plenipotentiaries have signed the present Convention and have hereunto affixed their seals.

Done in duplicate at this day of 19

SEAL

JAPAN

TRANS-PACIFIC FLIGHT FROM JAPAN TO THE UNITED STATES OF CLYDE E. PANGBORN AND HUGH HERNDON, JR.

800.79611 Pangborn-Herndon Flight/7 : Telegram

The Acting Secretary of State to the Ambassador in Japan (Forbes)

WASHINGTON, April 2, 1931--7 p. m.

50. Please obtain necessary permission from appropriate Japanese authorities for following flight over Japanese territory and report by cable:

Starting about second week in April. Clyde E. Pangborn, Transport License No. 240 and Hugh Herndon, Jr., Transport License No. 7214.

Type of plane Bellanca J-type with Wright J-6 engine and possesses United States registration, identification and airworthiness License No. NR-796W.

Department of Commerce approves both pilots and equipment. Itinerary New York via Irish Free State, England, France, Poland to Moscow-Kerak-Vladivostok-Alaska-Canada-New York, or possibly from Kerak to Tokyo and across Pacific to United States. Time of flight about 15 days.

Will carry emergency tool kit and emergency food supply but no firearms, camera or radio. Plane owned by A. T. W. Corporation, composed of Emil Roth, Jr., Pangborn and Herndon.

Interested persons making own arrangements for flight over Russian territory.

Department has sent similar telegrams to Paris and Peiping.

CARR

800.79611 Pangborn-Herndon Flight/11 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

Tokyo, April 13, 1931--1 p. m.

[Received April 13--5:17 a. m.]

51. Department's 50, April 6 [2], 7 p. m. Japanese Government desires to know definitely route Pangborn plane will follow before issuing permit.

FORBES

800.79611 Pangborn-Herndon Flight/20 : Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

WASHINGTON, April 21, 1931—3 p. m.

65. Your 51, April 13. Department informed permission requested for Pangborn and Herndon flight over Japanese territory as emergency measure. Should plane or motor develop trouble pilots would attempt to reach Tokyo where service on motor available. Proposed route as follows: Moscow—Novo Sibirsk—Chita—Okhotsk—Nome.

STIMSON

800.79611 Pangborn-Herndon Flight/34 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, June 11, 1931—noon.

[Received June 11—8:05 a. m.]

80. Department's telegram No. 65, April 21, 3 p. m. Permission granted Pangborn-Herndon to make emergency landing or flight over Japanese territory if necessitated by unexpected circumstances subject to usual restrictions against flying over fortified zones or carrying firearms or cameras. If a forced landing is made on Japanese territory the matter must be reported nearest Japanese officials. Subsequent flights must be made only at direction of such officials.

NEVILLE

800.79611 Pangborn-Herndon Flight/36 : Telegram

The Ambassador in Japan (Forbes) to the Acting Secretary of State

TOKYO, August 10, 1931—5 p. m.

[Received August 10—9:50 a. m.]

117. Embassy's telegram 80, June 11, noon. Herndon and Pangborn landed in Japan, August 7th, without permit after flying over several fortified zones taking moving pictures on the way. They have spent a very bad week end with the police but have not been actually arrested. The Embassy is using its good offices to mitigate official displeasure. Result uncertain as yet.

FORBES

800.79611 Pangborn-Herndon Flight/44 : Telegram

The Ambassador in Japan (Forbes) to the Acting Secretary of State

TOKYO, August 15, 1931—4 p. m.

[Received August 15—6 a. m.]

122. I have just been informed that Pangborn and Herndon have been fined 2,050 yen each or 205 days in prison. No other penalty.

FORBES

800.79611 Pangborn-Herndon Flight/45 : Telegram

The Ambassador in Japan (Forbes) to the Acting Secretary of State

TOKYO, August 15, 1931—6 p. m.

[Received August 15—5:40 a. m.]

123. Embassy's 122, August 15, 4 p. m. I should have stated that their camera and films were confiscated.

FORBES

800.79611 Pangborn-Herndon Flight/50 : Telegram

The Acting Secretary of State to the Ambassador in Japan (Forbes)

WASHINGTON, August 15, 1931—1 p. m.

135. Your 123, August 15, 6 p. m., and previous.

1. Inform Department whether question of Herndon and Pangborn's flying their plane from Japan has or has not been settled.

2. If this is still pending or if an adverse decision has been made, Department desires that you urge on authorities that, in the interest of good will and to avert criticism of press and public, they permit flight and, to encourage good will, give the flyers such assistance as may be possible.

BUNDY

800.79611 Pangborn-Herndon Flight/51 : Telegram

The Ambassador in Japan (Forbes) to the Acting Secretary of State

TOKYO, August 16, 1931—noon

[Received August 16—12:21 a. m.]

124. Department's telegram No. 135, August 15, 1 p. m.

1. The question of Herndon and Pangborn's permit to fly the Pacific has not been raised. It was considered advisable to delay this matter until the judicial proceedings were over so as not to confuse two separate issues in the public mind. The administrative authorities can now I understand proceed without judicial or police interference.

2. The Department's instructions will be carried out and every effort will be made to obtain the permit. The plane will require slight alterations to it to carry sufficient fuel to cross the Pacific and the Embassy will try to obtain permission for the flight by the time the alterations are completed.

FORBES

800.79611 Pangborn-Herndon Flight/64 : Telegram

The Ambassador in Japan (Forbes) to the Acting Secretary of State

TOKYO, August 23, 1931—3 p. m.

[Received August 23—10:50 a. m.]

126. Department's 143, August 22, 3 p. m.¹

1. Formal application for permit for Herndon and Pangborn to fly across the Pacific from Japan was made by the Embassy on August 17th. I have spoken to the Foreign Minister myself and other members of my staff by my direction have also urged upon the Vice Minister and bureau chiefs the necessity for speedy action. There is much opposition to permitting the flight on the part of some officials. I am informed that the Foreign Minister himself is now handling the matter and I hope to obtain a favorable answer soon.

2. The Embassy also requested the release of the plane by Customs on August 11 and was informed that under the law a guaranty in the nature of a bond for payment of duty would be required. Herndon was informed that the Embassy could not go bond for private individuals for the payment of money. Herndon has subsequently stated that Customs bond was being arranged privately. There has been some trouble about this as apparently the Customs did not like to accept the signature of only one person and there are no bonding companies here as we know them at home.

FORBES

800.79611 Pangborn-Herndon Flight/84

Memorandum by Mr. Ransford S. Miller of the Division of Far Eastern Affairs of a Conversation With the Japanese Counselor of Embassy (Kato)

[WASHINGTON,] August 25, 1931.

Mr. Miller referred to the interest which had been created in the United States in the case of these American fliers and to the various press comments relating thereto. It was pointed out that, quite apart from the merits of the case, the effect upon the friendly relations between the United States and Japan of much of this comment was not

¹ Not printed.

good; that the Department and the Japanese Embassy appeared to have a common interest in minimizing these undesirable effects upon the good relations between the two countries; that it had occurred to us to inquire whether the Embassy saw anything that it might do in this direction to supplement the efforts that were being made by the Department and by the Japanese Foreign Office; and that the question assumed additional importance from the fact that permission for the American fliers to resume their flight was now under discussion and a decision was still pending.

Mr. Kato stated that he fully appreciated the point raised and that the Embassy would be glad to send a telegram to Tokyo along the line suggested. He stated that on the 21st he had received a telegram from his Government giving full details in the case, some points in which he felt the American public had not been fully and correctly informed about through the press reports. He reviewed the contents of this telegram, which did not, however, appear to add anything substantive to the information which the Department already had. He stated that he had not given this information to the press for the reason that by the time it was received a decision had been rendered and made public and he had considered the matter closed. He repeated that, in view of the later developments relating to the permit, the Embassy would telegraph the Foreign Office on the subject.

800.79611 Pangborn Herndon Flight/116

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] August 27, 1931.

The Japanese Ambassador came in to ask in general how things were going and in particular to find out from me whether it would be appropriate for the Emperor to bestow a decoration on Colonel Lindbergh.² He spoke of the wild enthusiasm in Japan on the Colonel's arrival. He said that he hoped that we might be able to bring out to the press the fact that this enthusiasm was a real manifestation of Japan's friendship for this country and that the Lindbergh flight could be sharply differentiated from the Herndon-Pangborn. I told the Ambassador that so far as this latter flight was concerned, I had in no way blamed the Japanese Government for imposing fines on the two men, but that I felt a decision should promptly be reached as to whether they might continue their flight across the Pacific. I told him that the American people would understand the fines, since the aviators had manifestly broken Japanese law, but that the long detention

² Col. and Mrs. Charles A. Lindbergh were on a flight to Japan and China via Alaska.

of their plane after the fines had been levied might well be considered in this country as unnecessary persecution. The Ambassador said he entirely agreed with this and that he would immediately communicate with his Government urging that the men be allowed to leave. He said that he was sure the Foreign Office must be in favor of letting them go and that probably the trouble came from other departments.

W[ILLIAM] R. C[ASTLE, JR.]

800.79611 Pangborn-Herndon Flight/117

Memorandum by the Assistant Chief of the Division of Far Eastern Affairs (Hamilton) of a Conversation With the Japanese Counselor of Embassy (Kato)

[WASHINGTON,] August 28, 1931.

Mr. Kato telephoned and informed Mr. Hamilton that after Mr. Castle's talk with the Japanese Ambassador on August 27, the Ambassador had sent a further telegram to the Japanese Foreign Office requesting that favorable action be taken by the Japanese authorities in reference to the issuance of the permit to Messrs. Pangborn and Herndon to fly from Japan.

Mr. Hamilton thanked Mr. Kato for this information and expressed appreciation of the action taken by the Japanese Embassy.

M[AXWELL] M. H[AMILTON]

800.79611 Pangborn-Herndon Flight/88: Telegram

The Ambassador in Japan (Forbes) to the Acting Secretary of State

Tokyo, August 30, 1931—5 p. m.

[Received August 30—9: 15 a. m.]

129. My telegram No. 128, August 27, 3 p. m.³

1. I had another opportunity the other evening to discuss the Herndon-Pangborn case with the Minister for Foreign Affairs, who suggested that I speak directly with the Minister of Communications who was also present. I explained to the latter that the case was receiving much public attention in the United States. He said that he realized it and that the Minister for Foreign Affairs had been urging him to come to a speedy decision. He said that he had to consult the Army and the Navy and that there were a number of legal points involved. One point was that a Japanese pilot who has been convicted of offenses against the aviation laws and regulations is as a matter of administrative practice deprived of his flying license for at least 3 months. There was some opposition of [to?] granting more favorable treatment to foreigners than to Japanese. I said that I hoped he would be able to come to a decision soon. He said that he would make every effort

to get a favorable decision as he understood the need for early action. He wound up the conversation by saying "it won't take long", by that I understand he means about September 1st.⁴

2. In view of these conversations I have not presented the note referred to in my letter and the Department's telegram.⁵

FORBES

800.79611 Pangborn-Herndon Flight/148

*The American Ambassador in Japan (Forbes) to the Japanese Minister for Foreign Affairs (Shidehara)*⁶

No. 140

TOKYO, September 1, 1931.

EXCELLENCY: I have the honor to refer to my Note No. 124, of August 17, 1931,⁷ in which I requested, by direction of my Government, permission for Messrs. Pangborn and Herndon to fly from Japanese territory in an effort to cross the Pacific by air. Since the delivery of the note in question, I have had the honor of speaking to Your Excellency directly on the question, and the staff of the Embassy have also had informal discussions with members of the Department of Foreign Affairs.

If I understand the situation correctly, there is some opposition to permitting this flight. I need not here repeat the oral arguments with which the granting of the permit has been urged further than to assure Your Excellency that it would produce a very favorable impression in the United States.

I avail myself [etc.]

W. CAMERON FORBES

800.79611 Pangborn-Herndon Flight/124: Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

TOKYO, September 11, 1931—6 p. m.
[Received September 11—8:30 a. m.]

141. Foreign Office stated informally today that Pangborn-Herndon permit would be issued but the Japanese Government would prefer if at all possible that the flight be postponed until further notice. They state that postponement would help them out of a [predicament?] as the opposition would die down by then and anyway the weather would be more favorable. They have assured the Embassy that every effort

⁴ The airplane was released September 2, 1931.

⁵ Neither printed.

⁶ Copy transmitted to the Department by the Charge in Japan in his despatch No. 334, September 25; received October 10.

⁷ Not printed.

would be made to smooth the way for the flight in the spring and that there would be no difficulties.

The fliers have been [consulted?] but they object decidedly to postponement. I suggest that the Department consult supporters of the flight as I shall have to address the Foreign Minister further on this subject if the flight is to be attempted this year and I should prefer to do so by instruction, much as I should like to get the men out of Japan permanently at an early date.

FORBES

800.79611 Pangborn-Herndon Flight/132 : Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

WASHINGTON, September 14, 1931—noon.

162. Your 142, September 12, 6 p. m.,^s and 141, September 11, 6 p. m. Department has again conferred with supporters of flight and mother of Herndon. These regard early issuance of permit desirable. Department, giving solicitous consideration to points advanced in first paragraph of your 141, nevertheless believes that early issuance of permit would have greater advantages, taking into consideration all interests involved, than would deferred issuance. Department therefore authorizes and requests that, at your discretion as to moment and phraseology, and either on your own authority or on that of your Government, you present the further note for which the Foreign Office has asked requesting early issue of the permit.

STIMSON

800.79611 Pangborn-Herndon Flight/148

*The American Ambassador in Japan (Forbes) to the Japanese Minister for Foreign Affairs (Shidehara)**

No. 146

Tokyo, September 14, 1931.

EXCELLENCY: I fully realize the difficulties which confront the Japanese Government in granting permission for the proposed flight of Messrs. Pangborn and Herndon.

It is, however, the desire of my Government that permission be granted to these two aviators, and in view of the fact that Messrs. Pangborn and Herndon are desirous of being the first to accomplish a trans-Pacific non-stop flight, may I express the hope that they be given the desired permit as an exceptional measure which will not

* Not printed.

* Copy transmitted to the Department by the Chargé in Japan in his despatch No. 334, September 25; received October 10.

set up any precedent for the future. Such flight, if accomplished, would be epoch-making and would serve in the promotion and development of international air navigation.

I repeat the assurance made previously that the Embassy will do all in its power to prevent in future any infraction of law such as that which occurred during the flight of these two aviators from Habarovsk to Tokyo last August.

I avail myself [etc.]

For the Ambassador:
EDWIN L. NEVILLE

800.79611 Pangborn-Herndon Flight/133: Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

Tokyo, September 15, 1931—noon.
[Received September 15—2:27 a. m.]

145. Referring to your telegram No. 162 of September 14, noon, I had a long personal conference with Herndon-Pangborn this morning reviewing efforts made by the Embassy on their behalf. Although friendly I was very definite and did not mince words in expressing disapproval of such of their activities as have been unwise and unfair. Herndon expressed himself much enlightened. I made an appeal to their better citizenship to use every effort to allay any resentment against Japan incidental to their visit here. I have sent letter to the Foreign Office "expressing the hope" that the permit be granted but avoided stating it as a request of the Government. They replied by telephone asking influence to be used to postpone the flight until spring. This request I gave verbally to Herndon-Pangborn requesting a reply in writing, which has come in, insisting that they are not in a position to delay and requesting permit for immediate flying, which we are given to believe will be granted shortly.

FORBES

800.79611 Pangborn Herndon Flight/135: Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, September 19, 1931—6 p. m.
[Received September 19—6:23 a. m.]

154. Foreign Office has just informed me orally that the permit for Pangborn and Herndon has been granted.¹⁰

NEVILLE

¹⁰This was confirmed by the Japanese Foreign Office's note No. 106/BE2, September 21, 1931, copy of which was transmitted to the Department by the Chargé in Japan in his despatch No. 331, September 25; received October 10 (800.79611 Pangborn-Herndon Flight/148).

800.79611 Pangborn-Herndon Flight/143: Telegram

*The Japanese Minister for Foreign Affairs (Shidehara) to the
Secretary of State*

TOKYO, [October 6, 1931?]

[Received October 6—4:17 a. m.]

Now that the ocean between us has been bridged by one continuous flight, accept my warm congratulations on the event and on the intrepidity, skill and patience which have enabled Messrs. Pangborn and Herndon to achieve this memorable result which will always remain a landmark in the history of aviation.

KIJIRO SHIDEHARA

ADMISSION INTO THE UNITED STATES OF JAPANESE TREATY
(TRADE) ALIENS¹

150.949/23

*Memorandum by Mr. Ransford S. Miller of the Division of Far
Eastern Affairs*

[WASHINGTON,] June 19, 1931.

Mr. Midzusawa, of the Japanese Embassy, called at the Department on June 15 and again on June 17 to talk over informally with Mr. Cumming² and Mr. Miller some of the difficulties relating to the admission of treaty (trade) Japanese subjects.

Mr. Midzusawa exhibited, at the first interview on June 15, a considerable number of clippings taken from a Japanese newspaper published in Japanese in San Francisco, in which the Ambassador and the Embassy were severely criticized for neglecting to protect the rights of Japanese subjects in the matter of immigration, and copies in full of discussions of the same subject in the late session of the Japanese Diet. Mr. Midzusawa intimated that the Embassy did not take these criticisms too seriously but at the same time it was a matter which could not be ignored, especially in view of the interest being taken in the matter by the Japanese Diet. He stated further that the Japanese residing on the west coast did not fail to take advantage of any opportunity presented by the visit of any member of the Diet to state their grievances and to enlist the aid of such members.

Mr. Midzusawa then reviewed provisions of the Treaty of 1911³ which gave to Japanese subjects the right to "enter and reside in the territories of the other to carry on trade", and to the provisions of the

¹ For previous correspondence on the admission of Japanese, see *Foreign Relations*, 1924, vol. II, pp. 333 ff., and *ibid.*, 1930, vol. III, pp. 315 ff.

² Hugh S. Cumming, Jr., of the Visa Division.

³ *Foreign Relations*, 1911, p. 315.

Immigration Act of 1924⁴ which (Section 3 (6)) gave effect to the above Treaty provision. He then referred to the decision in the Circuit Court of Appeals, Ninth Circuit, (California) relating to the *Kumanomido* case⁵ in which the meaning of the word "trade" was given a very liberal interpretation. It appeared to Mr. Midzusawa therefore that the Consular Regulations which limit the application of Section 3 (6) of the Act of 1924 to such aliens as were engaged in international trade were inconsistent with the terms of the Treaty as interpreted by the above Court decision.

Mr. Midzusawa stated that this condition of affairs was bearing hardly upon a number of Japanese merchants who came to the United States prior to 1924 and were now engaged in local trade on the west coast, a number of whom were separated from their wives and children who had either remained in, or had returned to, Japan for family reasons. Mr. Midzusawa contrasted the treatment which was being given to Japanese merchants of this class with the treatment which he understood was being accorded to Chinese merchants under very similar conditions; and he felt that, in view of the Court's decision in the *Kumanomido* case with respect to the meaning of the Treaty, the Japanese merchants in question were not only being hardly treated but were also being discriminated against. He also referred to the obvious discrimination in this respect under the "Bingham Bill" which specifically entitled Chinese merchants, born in the United States, to have their wives join them in the United States.

It was pointed out to Mr. Midzusawa that in the interpretation of the Treaty provision to which he had referred the force of the preamble to that Treaty,—from which it appeared that the Treaty related to "the rules which are hereafter to govern the commercial intercourse between their respective countries"—, should not be overlooked; that with regard to the *Kumanomido* decision the Department did not consider that this decision was conclusive, in that it did not definitely decide the interpretation of the term "trade"; that the facts in that case were not favorable to a clear decision on this point and that, moreover, being the decision only of a Circuit Court, it was not generally applicable as would be a decision of the Supreme Court.

With reference to the treatment being accorded Chinese merchants, some of the statements advanced by Mr. Midzusawa were questioned as differing from the facts as known to the Department; he was told, moreover, that the procedure with respect to Chinese merchants was based upon a series of court decisions relating to the provisions of our treaties with China, and that, therefore, the procedure adopted in regard to Chinese merchants might naturally differ in certain respects

⁴ Approved May 26, 1924; 43 Stat. 153.

⁵ *Shizuko Kumanomido v. Nagle*, April 7, 1930, 40 F. (2d) 42.

from that accorded to the nationals of other countries under other treaty provisions and court decisions.

In the second interview, on June 17, Mr. Midzusawa reviewed the points discussed in the previous conversation and stressed the point that the Consular Regulations with respect to the admission of Japanese trades-people appeared to be inconsistent with the provisions of the Treaty on the subject as well as with the court decisions in the Kumanomido and other cases and to the actual practice with reference to Chinese merchants. He stated that there were two classes of trades-people affected, namely, residents in the United States who had entered prior to 1924, who were engaged in local trade in the United States and were separated from their families by virtue of the Department's interpretation of the Treaty provisions; and secondly, other trades-people who had not been in the United States but who might wish to come but were unable to secure consular visas for that purpose. Of the two classes above mentioned Mr. Midzusawa intimated that he was more concerned about the first. He repeated that he thought the Consular Regulations and practice should be revised to conform with the interpretation of the Treaty as given by the courts and with the procedure regarding Chinese merchants.

The status of the question as viewed by the Department was again reviewed for Mr. Midzusawa's benefit and he was given to understand that no revision of the Consular Regulations was at present contemplated by the Department. It was suggested that, rather than to continue a discussion of the question on general principles, which apparently would only lead to an impasse, a more practical way of getting at the merits of the situation would be to take up informally the examination of individual concrete cases in an attempt to see if there was any way out of the difficulty, in individual cases, by administrative measures under the Regulations as they now stand. He was informed that as a matter of fact the interpretation of the Regulations given by the American consular officers in Japan appeared to be more than usually liberal in some respects as was evidenced by the case of the twenty-five Japanese "merchants" who came to the United States in the spring of last year, all but three of whom were unable to establish their right to enter the United States, and by the fact that according to the statistics of the Department of Labor a very large proportion of those Japanese who had been admitted at the ports of Seattle, San Francisco and Los Angeles during the years 1927-1928 and 1928-1929 under bond as temporary visitors had forfeited their bonds and remained in the United States.

Mr. Midzusawa concurred in the above suggestion and stated that he had on hand data relating to several such individual cases which he would be glad to submit and talk over at some other time.

ARRANGEMENT BETWEEN THE UNITED STATES AND JAPAN REGARD-
ING RECIPROCAL RECOGNITION OF LOAD-LINE CERTIFICATES
EFFECTED BY EXCHANGE OF NOTES SIGNED FEBRUARY 13, 1931,
MARCH 19 AND 30, 1931, AUGUST 25, 1931, AND SEPTEMBER 7, 1931

Executive Agreement Series No. 25
894.8561/14

*The American Chargé in Japan (Dooman) to the Japanese Minister
for Foreign Affairs (Shidehara)*

No. 46

Tokyo, February 13, 1931.

EXCELLENCY: I have the honor to advert to the Embassy's note No. 194, dated August 24, 1922,¹ proposing an arrangement between the Governments of the United States and Japan for the reciprocal recognition of ship load-line certificates pending the enactment of suitable legislation by the United States, and to the note No. 147, dated October 25, 1922,¹ of Your Excellency's predecessor, Count Uchida, expressing the readiness of the Imperial Government to recognize certificates of this nature issued to American vessels. I now have the honor to inform Your Excellency that a law, entitled "An Act to Establish load-lines for American vessels, and for other purposes", was enacted by the Congress of the United States,² and became effective September 2, 1930.

Your Excellency will recall that our respective Governments, together with other interested Governments, entered into an international load-line convention, which was signed at London on July 5, 1930.³ I am now instructed to inquire whether Your Excellency's Government would be willing to continue the arrangement in respect of ship load-line certificates made between our two Governments in 1922, pending the coming into force of the above-mentioned convention of July 5, 1930.

In transmitting herewith a copy of the "Regulations for the Establishment of Load-lines for Merchant Vessels of 250 Gross Tons or Over When Engaged in a Foreign voyage by Sea", I have the honor to request Your Excellency to be so kind as to supply me with a copy of the Japanese laws and regulations (with official English translations if they be available), pertaining to load-lines of merchant vessels.

I avail myself [etc.]

EUGENE H. DOOMAN

¹ Not printed.

² Approved March 2, 1929; 45 Stat. 1492.

³ *Foreign Relations*, 1930, vol. 1, p. 261.

Executive Agreement Series No. 25
894.8561/14

*The Japanese Minister for Foreign Affairs (Shidehara) to the
American Chargé in Japan (Neville)*

[Translation]

No. 30/CI

TOKYO, March 19, 1931.

MONSIEUR LE CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of the Embassy's note dated February 13, 1931, informing me, with reference to the arrangement made between our two Governments in 1922 in respect of ship load-line certificates, that a law entitled "An Act to Establish Load-lines for American vessels, and for other purposes" has been enacted, and became effective September 2, 1930, and inquiring whether or not the Japanese Government would be willing to continue the above-mentioned arrangement of 1922 pending the coming into force of the International Ship Load-line Convention, which was signed at London on July 5, 1930.

When the notes were exchanged between the Japanese and American Governments in 1922, no ship load-line law had been enacted in the United States, and the question of the recognition by the United States of load-line certificates of Japanese ships was not raised. Consequently, no definite arrangement was made regarding this matter, the Japanese Government merely undertaking unilaterally to recognize certificates issued by the American Bureau of Shipping, pending the enactment in the United States of a law regulating ship load-lines.

I wish to be assured, and request that you indicate in reply, that you have no objection to my interpreting your note, above-mentioned, to mean that pending the coming into force of the International Ship Load-line Convention, the Japanese Government will continue the arrangement of 1922 while the American Government will also recognize as valid load-line certificates duly issued by the competent Japanese authorities or by officially designated shipping associations, and their corresponding marks.

Pending the receipt of your reply, the Japanese Government will continue to regard the arrangement of 1922 as effective, and I trust that the American Government will also recognize as valid the ship load-line certificates issued by the competent Japanese authorities or by officially designated shipping associations, and their corresponding marks.

In compliance with your request, I have the honor to transmit herewith a copy of the laws and ordinances, together with a copy in translation, relating to ship load-lines.

I avail myself [etc.]

BARON KIJIRO SHIDEHARA

Executive Agreement Series No. 25
894.8561/14

*The American Ambassador in Japan (Forbes) to the Japanese
Minister for Foreign Affairs (Shidehara)*

No. 59

Tokyo, March 30, 1931.

EXCELLENCY: In reply to Your Excellency's note No. 30, dated March 19, 1931, informing me that the Japanese Government will continue to recognize certificates of load-line issued by the American Bureau of Shipping to American vessels, pending the coming into force of the International Ship Load-line Convention signed at London on July 5, 1930, I have the honor to inform Your Excellency that the United States is recognizing the load-line marks approved by the Japanese Government.

I avail myself [etc.]

W. CAMERON FORBES

Executive Agreement Series No. 25
894.8561/16

*The American Ambassador in Japan (Forbes) to the Japanese
Minister for Foreign Affairs (Shidehara)*

No. 136

Tokyo, August 25, 1931.

EXCELLENCY: With reference to my Note No. 59, of March 30, 1931, informing Your Excellency that the Government of the United States will recognize as valid load-line certificates duly issued by the competent Japanese authorities or by officially designated shipping associations, and their corresponding marks, I have the honor to inform Your Excellency that I have received a communication from my Government confirming the assurances already given in my Note No. 59, of March 30, 1931.

I am further directed to inform Your Excellency that my Government has accepted the proposal of the Japanese Government to continue the present arrangement whereby load-lines of American vessels assigned by the American Bureau of Shipping are accepted by Japanese authorities as complying with their load-line requirements. I am also instructed to inform Your Excellency that my Government has authorized in particular cases the marking of load-lines and the issuance of certificates therefor, on American vessels, by the American Committee of Lloyds' Register of Shipping and by the American representatives of the Bureau Veritas, which my Government would desire to have the Japanese authorities recognize.

I avail myself [etc.]

W. CAMERON FORBES

Executive Agreement Series No. 25
894.8561/16

*The Japanese Minister for Foreign Affairs (Shidehara) to the
American Ambassador in Japan (Forbes)*

No. 97/C1

Tokyo, September 7, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of your notes of March 30 and August 25, 1931, regarding mutual recognition between Japan and the United States of load-line certificates.

Besides recognizing the load-line certificates issued by the American Bureau of Shipping to American ships, the Imperial Government has no objection to recognizing the load-line certificates issued to American ships by the American committee of Lloyds' Registry of Shipping and the American representative of the Bureau Veritas in so far only as they are issued under authority granted by Your Excellency's Government.

For purposes of reference it is desired to have at hand forms of the certificates issued by the American committee of Lloyds' Registry of Shipping and by the American representatives of the Bureau Veritas, and I have therefore the honor to request that copies be transmitted to me as soon as possible.

I avail myself [etc.]

BARON KIJIRO SHIDEHARA

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